Bill as Introduced

2000 SESSION

00-2492
01/09

HOUSE BILL *1244*

AN ACT relative to the use of certain needle technology.

SPONSORS: Rep. Emerton, Hills 7; Rep. Burling, Sull 1

COMMITTEE: Health, Human Services & Elderly Affairs

AMENDED ANALYSIS

This bill requires the commissioner of labor, in consultation with the commissioner of health and human services, to adopt rules to protect health care workers from occupational exposure to blood or other potentially infectious materials. The bill establishes a 10-member advisory council to advise the commissioner of labor and the commissioner of health and human services on such rules.

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Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand

AN ACT relative to the use of certain needle technology.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Statement of Purpose.

I. The general court finds and declares that:

(a) Each year in the United States, 150-200 health care workers die and many more suffer chronic and debilitating diseases due to injuries from needlesticks and sharps;

(b) The use of conventional needles results in increased risk of HIV infection and hepatitis B and C for health care workers;

(c) Equipment exists to prevent most injuries from needlesticks and sharps but concern with health care costs has impeded the widespread use of safer technologies; and

(d) It is of critical importance to the health care industry that safer needle technology be adopted to protect health care workers from needlesticks and other sharps injuries and that health care workers receive ongoing training on safe work practices.

II. Therefore, the general court hereby establishes an advisory council on issues related to the occupational exposure of health care workers to blood or other potentially infectious materials.

2 New Subdivision; Protection of Health Care Workers From Injuries From Needlesticks and Sharps. Amend RSA 275 by inserting after section 56 the following new subdivision:

Protection of Health Care Workers From Injuries From Needlesticks and Sharps

275:57 Definition. In this subdivision, "sharp" means any object used or encountered by a health care worker that can be reasonably anticipated to penetrate the skin or any other part of the body and result in an exposure incident, including but not limited to, needles, scalpels, lancets, broken glass, broken capillary tubes, exposed ends of dental wires and dental knives, drills and burs.

275:58 Advisory Council.

I. The labor commissioner shall appoint an advisory council which shall consist of the following members who shall serve 2-year terms:

(a) A registered nurse.

(b) A licensed practical nurse.

(c) A physician assistant.

(d) A physician.

(e) A phlebotomist.

(f) Two representatives of health care facilities.

(g) A dentist.

(h) An emergency medical technician.

(i) An infection control person.

II. The commissioner of health and human services, or designee, shall be an ex officio member of the advisory council.

III. The council shall advise the commissioner, in consultation with the commissioner of health and human services, on the content of the rules to be adopted pursuant to this subdivision and shall, upon request by the labor commissioner, provide technical assistance to the labor commissioner on issues related to the occupational exposure of health care workers to blood or other potentially infectious materials.

IV. The initial meeting of the advisory council shall be called by the commissioner within 60 days of the effective date of this subdivision. At its initial meeting the council shall select a chairperson from among its members. The council shall meet as necessary to accomplish its duties, provided that the council shall meet at least annually or at the request of the chairperson or the labor commissioner.

275:59 Rulemaking. The commissioner, in consultation with the commissioner of health and human services, shall adopt rules, pursuant to RSA 541-A, to protect health care workers in the public sector from occupational exposure to blood or other potentially infectious materials. These rules shall not be inconsistent with the bloodborne pathogen regulations adopted for the private sector by the Occupational Safety and Health Administration within the United States Department of Labor.

3 Effective Date. This act shall take effect January 1, 2001.

Committee Minutes

Date: April 24, 2000
Time: 1:00 pm
Room: LOB 102

The Senate Committee on Public Institutions/Health Human Services held a hearing on the following:

HB 1244 (New Title) relative to the use of certain needle technology.

Members of Committee present: Senator Squires
Senator Gordon
Senator McCarley

The Chair, Senator James Squires, opened the hearing.

Representative Larry Emerton, Hills. D. 7: Good afternoon and thank you very much Mr. Chairman and members of the Committee. I'm Representative Larry Emerton from Goffstown, Hillsborough 7. I do have the pleasure of introducing this bill in the House along with the Minority Leader or the Democratic Leader Representative Burling. We have worked very hard and diligently on this and I won't go into the gory details, however, this is a Nashua initiative not only from the prospective Legislature but for the provider community, the folks in the unions who represent many of the providers and lastly, it just makes good plain sense when the technology comes along that affords us the chance to save people's lives and not only save lives but to save them a tremendous torture when they get a stick from a needle. I certainly didn't try to get the headlines last week but many of you might have read the Union Leader about the person who has Hepatitis B or C and the provider of the healthcare was stabbed by one of these needles. I'm not saying that person would or would not have been saved with a new technology needle but I think he would have had a chance to.

This bill covers the public and OSHA covers the private industry. We understand that OSHA has quite a convoluted rules. I have copies of them in this stack of things that I kept track of. In fact, I do have a copy of the rules, the OSHA rules, and as you probably know they're many, many pages long. However, we do not propose and hopefully when it gets to the Rules Committee, our Legislature won't go into anything that in-depth.

The oversight will be by the Department of Labor and I want to commend publicly the Department of Labor and the Department of Health and Human Services for working very well together in a meaningful manner. That isn't always the case in our Commissions and Departments but in this case, they have worked real well together and I publicly support them. We have given rule-making authority to the Department, in this case, and I am sure that the Council which is part of this bill will help support the rule-making and the oversight committee, if you've seen in here, also will be working on as we initiate this, in my opinion, long overdue initiative.

Lastly, I believe this is a phase-in program so that if a healthcare operation has a lot of needles, they won't have to go throwing them all out and they'll be working in a little bit at a time. I'm sure my good friend, Dr. Squires, knows more about these than I do but Caroline, I'd like to pass out what these look like, if I may. This is one that is retracted and one that isn't. With that, I'm all set.

Senator James W. Squires, D. 12: Any questions? Seeing none, thank you very much Representative Emerton. Representative Pilliod.

Representative James Pilliod, Belk. D. 3: Thank you Mr. Chairman and good afternoon. I'm Jim Pilliod, Representative from Belmont District 3 and was Chair of a sub-committee where Health and Human Services House Committee that discussed this and I want to give just a little bit of history if I could.

his has been a national effort as was stated by Representative Emerton and the objective of course was to decrease, if possible, the accidents occurring in healthcare facilities having to do with needles because of the constant danger of needle sticks to employees and the public for that matter with needles that are either capped in a, shall we say, an older method or found in indisposable materials.

Now the bill that you have in front of you started in New Jersey actually. It was more a model piece of legislation but it included the type of things that we revised. On the last, shall we say, effort which we sent to the Senate was 1244 with a amendment which was 3904h and that should be the bill before you. Is that correct? That's the one before you today.

Now there are a couple of things about it. First of all, this is a much shorter bill. A much simpler bill than was originally proposed and the key to this has to do with the rule-making on the second page, line 20. The other things are a creation of an advisory committee and so forth which I'd like to go into but the actual rule-making is where we are which says that *"the commissioner, in*

consultation with the commissioner of health and human services, shall adopt rules, pursuant to RSA 541-A, to protect health care workers in the public sector" and the reason I say that is because the private sector is already covered by OSHA regulations, which I will go into very briefly but we have experts here to do that better. So now whet we're talking about really is what is needed for the public sector. That is our state hospitals, state facilities and clinics which in fact are operated and for this we have to have rules created which are not inconsistent with OSHA, our federal regulations, which would be the overarching model, if you will. *"These rules shall not be inconsistent with the bloodborne pathogen regulations adopted for the private sector by the Occupational Safety and Health Administration."* That's the key sentence. We don't have these at the moment and so what we're trying to do now is to create a mechanism for two purposes. One is to create an advisory committee which are the people working in the vineyard, if I can refer to that, the people who are actually using the equipment to see if we can't have their advise in terms of what's needed. That's the first piece. The second piece is to device the rules that can make this consistent with the federal regulations.

Now, there are two pieces of this I want to discuss. The first iteration of this 1244 had in it an exemption for dentistry. I would say that this has some logic because in dentistry the work with needles and syringes is a little trickier. It's difficult and we understand that. On the other hand there are provisions which say that if something is not available in the marketplace or if it cannot be used by the healthcare worker for various reasons, it is the provider who makes the decision in essence with his local safety plan as to what kind of needles and what kind of disposals you have, provided that you make sure they're the safest available and doesn't endanger people anymore than necessary. But if you have a particular procedure that has to take place and you cannot get into the mouth, you can't get in it with the new self covering needles, if you want to call them that, the safe devices then you may have to use an ordinary needle and syringe and that's understood. But it has to be the provider that makes that decision and then writes it down as part of their plan for at least the private sector. That's what's required by OSHA.

So, it was decided in sub-committee and the Committee of the legislature not to exempt as rather make everybody under the same umbrella but give them the latitude, if you will, to cover that kind of issue when it was not possible for them to use the equipment that's available for other things such as drawing blood or giving injections. If you can't use that in the mouth, then of course you don't have that available for you to use therefore – or it is available and you can use the other standard techniques but they're then responsible for making sure it's safe.

We think this is a very needed piece of legislation because it really comes down to creating an advisory council and secondly, for making provisions for rules to carry it out in the public sector. It's being carried out now by OSHA already and I won't go into that specifically.

Senator James W. Squires, D. 12: Any questions? Thank you. Brook Dupee.

Brook Dupee, NH Department of Health and Human Services: Thank you Mr. Chairman and members of the Committee. I speak very briefly here today. First of all, as the Prime Sponsor pointed out there was a lot work done on this bill in the House and that we participated fully in that work with the Department of Labor. We feel the bill before you today is much improved. It specifies the DOL will have the rulemaking authority for this and that we will work in consultation with them which much better than having two agencies trying to accomplish the same mission. We think that works very well. We also know that this will bring NH Hospital system into basically compliance with the OSHA requirements of bloodborne pathogen which we fully support and feel it's an important safety consideration for our staff. I know the Department of Labor spokesperson speaking after me so I will defer to that person for technical details but I will just say that we, Health and Human Services, fully support the bill and urge the Committee to do likewise.

Senator James W. Squires, D. 12: Thank you. Dennis Parker.

Dennis Parker, State Employee's Association: Thank you Mr. Chairman. For the record, my name is Dennis Parker and I'm representing the State Employee's Association and we also would like to go on record as in support of this legislation which as was earlier testified was somewhat changed in the House Committee and what's important to stress is that this does provide coverage in the public sector which up to this point in time there is no coverage with respect to safe needle usage by public sector health care workers and so we would encourage this Committee to take action on this bill and hopefully will find this bill has a tremendous amount of support but also merit because the private sector right now as testified does have the coverage.

Representative Emerton, and I'll leave this for the record, did mention the lab worker that was stabbed. Unfortunately the timing of this although it is in the private sector at CMC, this is the same kind of event that certainly could happen in any of our county facilities or at our state hospitals. So, I'll leave that for the record. **See Attachment A.**

Also, I have a letter here from Lynda Arnold and if you'll give me permission I'd just like to quickly read it, who is from Pennsylvania. She's a nurse and also a somewhat part-time resident in New Hampshire. **See Attachment B.** With, Mr. Chairman, I will conclude my testimony and be glad to answer any questions if I can.

Senator James W. Squires, D. 12: Thank you. Mr. Jarvis.

Jack Jarvis, NH Department of Labor: Good afternoon Mr. Chairman and members of the Committee. My name is Jack Jarvis and I'm the Manager of the Safety and Training Division for the Department of Labor. We do support this legislation. The Commissioner does support this legislation. When I first noticed that this legislation came up, one of the first things that I did was check our Worker's Compensation records and First Report of Injuries and found out that during a period of time the number of First Report of Injury we had for needle sticks, approximated to close to 3,000 in a one year period. If you look at the percentages of those 3,000 they're going to relate in some sort of disease that's going to effect I don't know how many people. It's significant. It really is and something has to be done to protect these people. I was really amazed by the large number and that number is pretty consistent with the rest of the Country. If we can prevent a portion of those, I mean, this legislation I think will and it certainly is worth while.

What our intent is to add this section to our existing safety health rules. It will be 1400 which of our specific safety and health regulations and we will make this part of it. We certainly will look forward to working with the advisory committee to develop this rule. It's policy that we have had in the past at the Department of Labor when issues like this we bring some people from various aspects who are going to be involved in this legislation and going to be affected by it to actually sit down and help us develop the administrative rules.

So we do support it and we would hope for your support and I'd be happy to answer any questions.

Senator James W. Squires, D. 12: Thank you very much. Does anybody else wish to testify on this bill? Yes, Leslie.

Leslie Melby, NH Hospital Association: Thank you Mr. Chairman and members of the Committee. For the record my name is Leslie Melby. I'm Vice-President for Government Relations for the NH Hospital Association and I'm joined today by Sue Irving who is the Director of Infection Control and Epidemiology at the Lakes Region General Hospital. Sue also serves on the Government Affairs Committee of the Association of Practitioners of

Infection Control and if you have any questions on some of the more esoteric technology of safe practices on infection control, Sue's here to respond to that.

I'll be brief. I just want to say that we, the NH Hospital Association, strongly supports House Bill 1244 as amended by the House. It speaks to the overarching desire of the need to protect all health care workers from needle sticks and other sharp injuries and that we have in the private sector been protected by the OSHA requirements in the most recent directive from OSHA issued in November regarding bloodborne pathogen standard.

I commend the House Health and Human Services Committee for the work that they've done particularly the sub-committee chaired by Representative Pilliod in crafting an amendment that yields with an advisory committee that has the front-line workers represented, addresses what has previously been a lack of oversight in the public sector and deal with appropriate standards as is adopted by Rules.

So, in brief, we urge the Committee to support House Bill 1244 as it has come to you from the House. I'd be happy to answer any questions.

Senator James W. Squires, D. 12: Thank you. Anybody else wishing to speak?

Palmer Jones, NH Medical Society: Just on record to support it. I think nothing else more can be said. The Medical Society supports it.

Senator James W. Squires, D. 12: Anybody else. Seeing none I will close the hearing on House Bill 1244.

Hearing closed at 1:20 pm.

Respectfully submitted,

Merideth A. Chandler,
Committee Secretary

Union Leader 4-22-00

Attachment A

Lab worker stabbed with needle from HIV patient

Infected woman charged in incident

By PAT GROSSMITH
Union Leader Staff

An HIV-infected Manchester woman is being held on $10,000 cash or surety bail for allegedly stabbing a Catholic Medical Center lab technician with a hypodermic needle containing her contaminated blood.

Alma Daniel, whose last known address is the New Horizons Soup Kitchen at 199 Manchester St., is charged with felony reckless conduct.

Manchester District Court Judge Norman E. Champagne on Thursday found probable cause, that there is enough evidence to charge Daniel with the felony offense.

The case was bound over to Hillsborough County Superior Court.

The alleged incident took place on April 4 at about 4:35 p.m. in the CMC emergency room.

A medical technician, according to a sworn affidavit by Manchester police detective Sgt. James Stankiewicz, was drawing blood from Daniel, who told medical personnel that she was HIV-positive and also suffered from hepatitis C.

Court documents do not indicate why Daniel was in the emergency room, but they do say that her medical treatment made it necessary for blood to be drawn.

The laboratory technician, who city prosecutor Maryellen Biletch asked not to be identified, was in the process of drawing Daniel's blood when she

HIV STABBING, Page A0

HIV STABBING
(Continued From Page A1)

complained that the needle hurt.

The technician told police that Daniel took the needle from where it was inserted in her hand and stabbed him with it in his left wrist, according to court records.

Daniel told police that the technician hurt her and she was not happy with him, Stankiewicz wrote. At first, she claimed she took the needle out of her hand and put it on the floor.

As the interview continued, however, she changed her story, claiming instead that the technician stabbed himself to make it look like she had done it to him, according to court documents.

When Stankiewicz told her that was not "overly plausible," according to the court record, Daniel told him it was all an accident.

She said the needle hurt so she took it from her hand and as the technician was reaching for it, he got cut on the needle.

Daniel, who, according to court documents, has been convicted of prostitution, possessing a hypodermic needle and possessing drugs, told police that she has known she was HIV-positive for three years and has known about her hepatitis for many years.

Stankiewicz wrote that Daniel told him she knew contamination from her blood can cause serious consequences for anyone else who may come into contact with it.

"She also told me that she knows HIV is serious and can cause AIDS, which is deadly. She also stated that it is not normal for a patient to take a needle from their arm in a hospital. She stated it is normal for the technician to taken the needle from the patient's arm," the detective wrote.

Daniel also told police that she knows hepatitis is a serious problem, that it affects the liver and people cannot live without a liver.

Daniel, however, maintained that she did not intend to do this and that "if the technician is saying she stabbed him on purpose it is a lie," Stankiewicz wrote.

Attachment B

April 13, 2000

Lynda Arnold, RN, BSN

3801 Vincent Drive

Collegeville, PA 19426

Dear New Hampshire Legislators,

I would like to introduce myself. I am a 30 year old Registered Nurse, wife and mother of three. As a Pennsylvania resident, I have long admired the fortitude and sheer beauty of your state. However, some may say that I am biased as my in-laws and my husband's cousins reside within Keene and Walpole, New Hampshire.

I am writing to urge your swift and judicious passage of House Bill 1244. This will enable NH healthcare workers to perform their patient care duties within a safe and secure workplace. Every day, NH healthcare workers: nurses, physicians, phlebotomists, nurses' aides and others come in contact with sharp needles that can expose them to the hazards of diseases like HIV/AIDS, Hepatitis B and Hepatitis C. Actually, there are over twenty similar infectious diseases that can be transmitted through one accidental needlestick injury. Many of these diseases are life threatening.

Infection with such diseases occurs in rates from .3-30% dependent upon many factors including the type of needle or sharp object involved. Data has proven that these injuries can be drastically reduced over 90% of the time by the elimination of conventional needles and the usage of "safety devices". These newer types of hollow bore needles have engineered safety features that require the needle to be resheathed, retracted or blunted so that no injury occurs to the healthcare worker should the patient inadvertently move or the sharps container be overfilled.

I should point out that there are nearly 250 healthcare workers in the US who die every year as a result of occupationally transmitted infections. Averages for Hepatitis C are 1,000 new infections from occupational transmission per year and 60 new HIV occupational infections annually. I am one of those statistics. In 1992, I sustained a needlestick injury during the routine care of a patient even though I had followed stringent universal precaution guidelines and performed the procedure with care. The patient moved his arm unexpectedly and the bloody needle penetrated my left palm. He died from AIDS three weeks later. I was diagnosed HIV positive six months later.

I have lived with this life threatening disease for almost eight years. Much has changed in my life and much has remained constant. The support and love of your own NH constituents, my extended family members, has helped to make my life more bearable. My husband and children join me in urging you to quickly pass this life saving legislation so that my story will not become a New Hampshire story in a clinic or hospital of your own.

Healthcare workers need and deserve the safest tools necessary to help save others. Please help save the lives of your own state workers. A safety needle would have saved mine.

Thank you and God Bless.

Sincerely,

Lynda Arnold

Lynda Arnold, RN

Speakers

SENATE PI-HHS COMMITTEE

Date 4/24/00 Time 1:00 PM Public Hearing on HB 1244

Appearing in FAVOR: (Please print) **Please check box at left to speak:**

Speaking?	Name	Address	Representing
☒	Larry Emerton		Sponsor
☒	Brook Dupee		NH DHHS
☐	Virginia Blackmer	48 West St Concord, NH	NH Nses Assoc.
☐	Henry Dougherty	NH Dental Society Concord	NH Dental Society
☑	James Pilgrim	Ch Sub-Com House HHS.	
☑	Denis Parker	Concord	SEA
☑	Jack Jarvis	NHDOC	NHDOC
☒	Leslie Melby	NH Hospital Assoc	
☐	Susan Ivey	NH Infection Control Prac.	NHICP - LRGH
☐	Peter Burling - co-sponsor		Co-Sponsor
☐	Palmer Lewis		

Appearing in OPPOSITION: (Please Print) **Please check box at left to speak:**

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Committee Report

Date: April 24, 2000 Time: 1:00 PM

The Senate Committee on Public Institutions/Health Human Services held its hearing in Room 102, LOB, Concord, New Hampshire.

BILL NO.: HB 1244 TITLE: (New Title) relative to the use of certain needle technology.

Members of the Committee present: Senator Squires
Senator Gordon
Senator McCarley

Those appearing in favor:

Name and Address	Representing
See Attached.	

Those appearing in opposition:

Name and Address	Representing
See Attached.	

REPORT OF THE COMMITTEE:

- ☒ Ought to Pass
- ☐ Ought to Pass w/ Amendment
- ☐ Inexpedient to Legislate
- ☐ Rereferred
- ☐ Interim Study
- ☐ Continued Hearing
- ☐ Postponed Hearing

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date: April 24, 2000

THE COMMITTEE ON Public Institutions/Health Human Services

to which was referred House Bill 1244

AN ACT (New Title) relative to the use of certain needle technology.

VOTE: 3-0

Having considered the same, report the same without amendment and recommend that the bill: **OUGHT TO PASS.**

Senator James Squires
For the Committee