

Background

Through the diligent work of the American Nurses Association, a tremendous victory was achieved when the federal "Needlestick Safety and Prevention Act" was signed into law on 11/6/00. The passage of federal needlestick legislation was part of ANA's Safe Needles Save Lives campaign, a three pronged approach utilized by ANA to push for an amendment to the federal Occupational Health and Safety Administration (OSHA) Occupational Exposure to Bloodborne Pathogens Standard (Standard) that would require employers to use the most effective devices to decrease needlestick injuries. The other two approaches included amending the OSHA Standard through the federal regulatory process as well as the passage of state needlestick legislation.

This issue continues to be addressed on the state level with legislation to strengthen needlestick protections for nurses and other health care providers. Some states without state OSHA plans have introduced legislation to cover state and municipal employees who are not covered by the "Needlestick Safety and Prevention Act." States with state OSHA plans have are pushing for protections that go beyond the federal needlestick law.

In 2003, the trend was to create exemptions from informed consent requirements for bloodborne pathogen testing. **ME** enacts required testing when a health care employee is exposed to blood or bodily fluids in the course of their employment and permits an exception to required consent for testing. **MD** law requires infectious disease officers in hospitals to order HIV tests without informed consent under certain circumstances and **ND** allows emergency and public employees exposed to bloodborne pathogens while working with an arrestee to require contagious disease testing.

The trend in 2002 was to adopt presumptive eligibility under workers compensation or other employer benefit programs for communicable diseases and bloodborne pathogens similar to the **NV** legislation passed in 2001 and to require safe needle devices to be used in public health care facilities. Legislation in **NY** was enacted to add civilian employees of the Dept. of Corrections to the list of public safety workers who can receive coverage for the care, treatment, diagnosis, and recommended medicines if exposed to communicable diseases or bodily fluids. **PA** enacted amendments to the Bloodborne Pathogen Standard Act to include exposure to bodily fluids. It also requires education of employees on use of safe needlestick devices before they are introduced into a clinical setting. Compliance monitoring now becomes the responsibility of each employer. **TN** has a new law requiring disclosure of inmates test results for bloodborne pathogens to be disclosed to exposed correctional employees within 24 hours of results. In **VA** new law covers EMTs, paramedics, firefighters and police who test positive for exposure, are granted presumption of occupational exposure and may make claim under workers' comp.

Five states enacted legislation in 2001. Landmark legislation was enacted in **NV** that requires presumptive eligibility coverage under workers compensation for diseases contracted through employment. Because there is such a long interval between exposure to and diagnosis of HIV and Hepatitis C, many health care workers are denied workers compensation benefits for their illness resulting from a needlestick injury. This legislation would presume the infection stemmed from a needlestick injury related to employment allowing workers to receive workers compensation benefits.

Prior to 2001 legislation enacted requires **AR** hospitals to purchase safe needle devices; **CA** to make clarifying changes to a bloodborne pathogens provision in state law and requires the Department of Health Services to maintain a Sharps Injury Control program that shall contain a continuously updated list of existing needleless systems and needles with engineered sharps injury prevention. **PA** legislation required the Department of Health to establish bloodborne pathogen standards for public employees while **RI** legislation required the division of occupational safety and the department of labor to adopt additional regulations governing occupational

exposure to bloodborne pathogens including the establishment of needleless systems and an evaluation committee.