

## California Legal Code Related to Access to Sterile Needles and Syringes

### Syringe Exchange Programs

[California Health and Safety \(H&S\) Code Section 11364.7\(a\)](#) establishes that no public entity, its agents, or employees shall be subject to criminal prosecution for distribution of syringes to participants in syringe exchange programs (SEPs) authorized by the public entity.

[California Business and Professions \(B&P\) Code Section 4145.5\(e\)](#) requires SEPs to counsel consumers on safe disposal and provide them with one or more of the following disposal options: 1) onsite disposal, 2) provision or sale of sharps containers that meet applicable state and federal standards, and/or 3) provision or sale of mail-back sharps containers.

### Local Authorization of SEPs

[H&S Code Section 121349.1](#) allows local governments to authorize SEPs in consultation with the California Department of Public Health (CDPH), as recommended by the U.S. Secretary of Health and Human Services, subject to the availability of funding, as part of a network of comprehensive services, including treatment services, to combat the spread of HIV and blood-borne hepatitis infection among injection drug users.

[H&S Code Section 121349.2](#) requires that local government and health officials, law enforcement and the public be given an opportunity to comment on SEPs on a biennial basis in order to address and mitigate any potential negative impact of SEPs.

[H&S Code Section 121349.3](#) requires the local health officer to present information about SEPs at an open meeting of the local authorizing body. The information is to include, but is not limited to, relevant statistics on blood-borne infections associated with syringe sharing and the use of public funds to support SEPs. The report must be made on a biennial basis.

### State Authorization of SEPs

[H&S Code Section 121349.1](#) allows CDPH to authorize SEPs in locations where the conditions exist for the rapid spread of viral hepatitis, HIV or other potentially deadly diseases. More information is available at <http://www.cdph.ca.gov/Documents/Fact%20Sheet%20-%20SEP%20Certification.pdf>.

### Sale or Provision of Syringes by Licensed Pharmacists and Physicians

[B&P Code Section 4145](#) permits pharmacists and physicians to furnish or sell an unlimited number of hypodermic needles and syringes to adults age 18 and older.

[H&S Code Section 11364](#) permits adults age 18 and older to possess syringes for personal use if acquired from a physician, pharmacist, authorized SEP or any other source that is authorized by law to provide sterile syringes or hypodermic needles without a prescription.

### Individual Possession of Needles and Syringes

[H&S Code Section 11364](#) governs the possession of drug paraphernalia. Adults age 18 and

older may possess syringes for personal use if acquired from a physician, pharmacist, authorized SEP or any other source that is authorized by law to provide sterile syringes or hypodermic needles without a prescription. Individuals may not possess a syringe on school grounds with the intent to provide the syringe to an individual under the age of 18, if that person may use the syringe to inject a controlled substance.

AB 1743 (Ting, Chapter 331, Statutes of 2014) removed prior limits on the number of syringes adults may possess. As of January 1, 2015, adults may possess an unlimited number of hypodermic needles and syringes for personal use, without a prescription.

### **Nonprescription Sale of Syringes (NPSS) in Pharmacies**

[B&P Code Section 4145](#) permits the nonprescription sale of hypodermic needles and syringes by California pharmacies. AB 1743 (Ting, Chapter 331, Statutes of 2014) removed the prior limit of 30 hypodermic needles and syringes that California pharmacies and physicians had been permitted to furnish or sell. As of January 1, 2015, pharmacists and physicians may furnish or sell an unlimited number of hypodermic needles and syringes to adults age 18 and older.

A pharmacy that furnishes nonprescription syringes must store them so that they are only available to authorized personnel and are not accessible to other persons. Such pharmacies must also counsel consumers on safe disposal and provide written information or verbal counseling at the time of syringe sale on how to do the following: 1) access drug treatment, 2) access testing and treatment for HIV and hepatitis C, and 3) safely dispose of sharps waste. A *Patient Information Sheet* that includes this written information can be downloaded at <http://www.cdph.ca.gov/programs/aids/Pages/NPSSMainLandingPage.aspx>. Pharmacies must also make sharps disposal available to customers by selling or furnishing sharps disposal containers or mail-back sharps containers, or by providing on-site disposal.

### **Syringe Disposal**

[B&P Code Section 4146](#) permits pharmacies to accept the return of needles and syringes from the public if contained in a sharps container, which is defined in [H&S Code Section 117750](#) as “a rigid puncture-resistant container that, when sealed, is leak resistant and cannot be reopened without great difficulty.”

[H&S Code Section 118286](#) prohibits individuals from discarding home-generated sharps waste in home or business recycling or waste containers.

[H&S Code Section 118286](#) also requires that home-generated sharps waste be transported only in a sharps container or other container approved by the applicable enforcement agency, which may be either the state ([CalRecycle](#) program) or a local government agency. Home-generated sharps waste may be managed at household hazardous waste facilities, at “home-generated sharps consolidation points,” at the facilities of medical waste generators, or by the use of medical waste mail-back containers approved by the state.

[B&P Code 4145.5](#) requires SEPs and pharmacies that sell or provide nonprescription syringes to counsel consumers on safe disposal and also provide them with one or more of the following disposal options: 1) onsite disposal, 2) provision of sharps containers that meet applicable state and federal standards, and/or 3) provision of mail-back sharps containers.