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California Department of Public Health



EDMUND G. BROWN JR.  
*Governor*

November 1, 2011

TO: ALL INTERESTED PARTIES

SUBJECT: CALIFORNIA DEPARTMENT OF PUBLIC HEALTH AUTHORIZATION OF SYRINGE EXCHANGE PROGRAMS, ASSEMBLY BILL 604 AND INFORMATION ON RELATED LEGISLATION

On October 9, 2011, Governor Edmund G. Brown, Jr., signed into law [Assembly Bill \(AB\) 604 \(Skinner, Chapter 744, Statutes of 2011\)](#). The new law permits the California Department of Public Health (CDPH), Center for Infectious Diseases, Office of AIDS (OA) to establish a process through which qualified California agencies may apply directly to OA to provide syringe exchange services.

In his [signing message](#), Governor Brown directed OA to develop regulations to clarify the application process and criteria. He also asserted his belief that the process will “reduce the spread of communicable diseases and the suffering they cause and, at the same time, respect public safety and local preference.”

Under current law, city and county governments may authorize syringe exchange programs (SEPs). This provision remains in statute. AB 604 adds OA to the list of government entities which may authorize SEPs. In doing so, CDPH is required by statute and by the Governor’s signing message to act after a period of public comment in consultation with local health officers, law enforcement, and neighborhood associations. CDPH will also consult with syringe exchange providers and other experts in injection drug user health in developing regulations. The attached [fact sheet](#) provides more information about the requirements set out by AB 604 and the Governor’s signing message.

In addition to allowing OA to establish a process for authorization of SEPs at the state level, AB 604 eases SEP-related reporting requirements for local health officers and amends syringe possession law. In counties and cities which already have authorized SEPs, current law requires an annual presentation by the local health officer to the city

council or board of supervisors about: 1) relevant statistics on blood-borne infections associated with syringe sharing; and 2) the use of public funds to support SEPs. AB 604 amends current code by requiring the report to be made on a biennial, rather than an annual, basis.

AB 604 also specifies that SEP staff and volunteers not be subject to criminal prosecution for possession of syringes acquired from an authorized SEP.

OA is responding to the requirements of AB 604 in two ways. First, as directed by Governor Brown, OA will develop regulations to establish the criteria and process for application submission, review and approval. Ample opportunity for public input is incorporated into the regulation process. Note that the development of regulations is a thorough process that can be expected to take several months to complete. Second, by January 1, 2012, OA will provide updated information on its Web site, including fact sheets, PowerPoint presentations, frequently asked questions, and educational videos and materials for law enforcement, health departments and SEPs. Some material is already available and can be accessed at:

<http://www.cdph.ca.gov/programs/aids/Pages/OASyringeAccess.aspx>.

A separate, complementary bill governing nonprescription sale of syringes (NPSS) in pharmacies was also signed by Governor Brown. [Senate Bill \(SB\) 41 \(Yee, Chapter 738, Statutes of 2011\)](#) allows pharmacists the discretion that is conferred to pharmacists in other states, to sell syringes without the requirement of a prescription. This will permit customers, especially those in small, under-resourced areas which do not have the resources to establish SEPs, to protect their own health and the health of others. SB 41 also includes among its provisions the stipulation that adults anywhere in the state may possess for personal use up to 30 sterile syringes if acquired from a pharmacist, physician, or authorized SEP. The additional provisions of SB 41 will be detailed in a forthcoming letter.

Research indicates that both mechanisms, SEPs and pharmacies, are important sources of sterile injection equipment, and tend to serve different types of individuals. Studies have found that the average injection drug user waits years before attending a SEP. NPSS can help prevent the individual from becoming infected with blood-borne pathogens during that interval. SEPs, on the other hand, allow for a full spectrum of services and engage this highly vulnerable population in health care and social services.

OA is committed to providing effective community- and culturally-appropriate HIV prevention in California. Access to sterile syringes is integral to help reduce the spread

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of HIV, viral hepatitis, and other blood-borne infections among injection drug users, their partners, and their children.

If you have any questions please call or e-mail Alessandra Ross, Injection Drug Use Specialist, OA, at (916) 449-5796 or [alessandra.ross@cdph.ca.gov](mailto:alessandra.ross@cdph.ca.gov).

Sincerely,



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## **ASSEMBLY BILL 604 PROVISIONS AND REQUIREMENTS**

### **Background**

The use of shared injection equipment is the leading cause of hepatitis C infection in California, and the second most common means of contracting HIV and hepatitis B. Syringe exchange programs (SEPs) are a highly cost-effective component of a comprehensive HIV and hepatitis control strategy. Current California law permits local governments to authorize SEPs, and there are currently 37 authorized programs in the state. [Assembly Bill \(AB\) 604](#) (Skinner, Chapter 744, Statutes of 2011) adds the California Department of Health, Center for Infectious Diseases, Office of AIDS (OA) to the list of government entities that may authorize SEPs.

### **Key Provisions of AB 604 for OA**

Starting January 1, 2012 until January 1, 2019, OA has authority to establish a program that allows entities to provide syringe exchange services anywhere in the state where OA determines that the conditions exist for rapid spread of HIV, viral hepatitis, or other blood-borne diseases.

- OA is required to develop regulations for the program.
- OA SEP authorization will last two years and be made after consultation with local health officers (LHOs), local law enforcement officials, local neighborhood associations, and after a 90-day public comment period.
- OA is required to send a written and electronic mail notice to the chief of police, the sheriff, or both, as appropriate, of the jurisdiction in which the SEP will operate.
- Following authorization, a SEP will be listed on a directory of addresses and contact information for OA-authorized SEPs on the OA Web site.
- Before the end of the two-year authorization period, OA may reauthorize the SEP in consultation with the LHO and local law enforcement officials.

### **Key Considerations for Local Health Departments**

- Currently authorized SEPs maintain their status and do not need to apply to the state for re-authorization.
- Counties and cities maintain the authority to authorize SEPs if they choose.



- AB 604 changes requirements for LHOs who must report to city or county government on locally-authorized SEPs by requiring the report to be made every two years, rather than on an annual basis.

### **Key Considerations for Local Law Enforcement and Existing SEPs**

- AB 604 specifies that SEP staff and volunteers not be subject to criminal prosecution for possession of needles and syringes acquired from an authorized SEP.

### **Requirements for New SEP Applicants**

AB 604 requires applicant agencies to meet these minimum standards:

- The agency must provide, directly or through referral, all of the following services consistent with state standards:
  - Drug abuse treatment services.
  - HIV or viral hepatitis screening.
  - Hepatitis A and hepatitis B vaccination.
  - Screening for sexually transmitted infections.
  - Housing services for the homeless, for victims of domestic violence, or other similar housing services.
  - Services related to provision of education and materials for the reduction of sexual risk behaviors, including, but not limited to, the distribution of condoms.
- The agency must have the capacity to commence needle and syringe exchange services within three months of authorization.
- The agency must have adequate funding to do all of the following at reasonably projected program participation levels:
  - Provide needles and syringe exchange services for all of its participants.
  - Provide HIV and viral hepatitis prevention education services for all its participants.
  - Provide for the safe recovery and disposal of used syringes and sharps waste.
- The agency must have a plan and capacity to collect and evaluative data in order to assess program impact, including, but not limited to:
  - The number of individuals served.
  - The number of syringes distributed, recovered, and disposed of.
  - The number and types of referrals to drug treatment and other services.

### **Related Information**

- [AB 604 \(Skinner, Chapter 733, Statutes of 2011\) Full Text.](#)
- [Governor Brown's Signing Message for AB 604.](#)
- OA's Letter: [CDPH AUTHORIZATION OF SEPs, AB 604 \(SKINNER\) AND INFORMATION ON RELATED LEGISLATION.](#)
- [Syringe access information from OA.](#)
- For more information contact Alessandra Ross, Injection Drug Use Specialist, OA, by phone at (916) 449-5796 or by e-mail at: [alessandra.ross@cdph.ca.gov](mailto:alessandra.ross@cdph.ca.gov).