

Maryland Code
HEALTH - GENERAL
TITLE 24 - MISCELLANEOUS PROVISIONS
Subtitle 8 - AIDS Prevention Sterile Needle and Syringe Exchange Pilot Program
Section 24-801 - Definitions.

§ 24-801. Definitions.

- (a) In general.- In this subtitle the following words have the meanings indicated.
- (b) Commissioner of Health.- "Commissioner of Health" means the Baltimore City Commissioner of Health.
- (c) HIV.- "HIV" means the human immunodeficiency virus that causes acquired immune deficiency syndrome (AIDS).
- (d) Participant.- "Participant" means an individual who has registered with the Program.
- (e) Program.- "Program" means the AIDS Prevention Sterile Needle and Syringe Exchange Pilot Program.
- (f) Residue.- "Residue" means the dried remains of a controlled dangerous substance attached to or contained within a hypodermic needle or syringe.

§ 24-802. Baltimore City Health Department Program.

- (a) Creation.- There is an AIDS Prevention Sterile Needle and Syringe Exchange Pilot Program in the Baltimore City Health Department.
- (b) Obligations and duties.- The Program shall:
 - (1) Provide for the one-for-one exchange by participants of used hypodermic needles and syringes for sterile hypodermic needles and syringes; and
 - (2) Operate in accordance with the procedures approved, with the advice and approval of the oversight committee, by the Commissioner of Health.

§ 24-803. Design and operation.

The Program shall:

- (1) Be designed and maintained to provide maximum security of exchange locations and equipment, including security measures that may be required to control the use and dispersal of hypodermic needles and syringes and security measures that allow for a full accounting of the number of hypodermic needles and syringes in circulation and the number of hypodermic needles and syringes in storage;
- (2) Be operated to allow participants to exchange used hypodermic needles and syringes at any exchange location, if more than one location is available;
- (3) Include appropriate levels of staff expertise in working with injecting drug users and adequate staff training in providing community referrals, counseling, and preventive education;
- (4) Provide for the dissemination of other preventive means for curtailing the spread of the HIV infection;
- (5) Provide a linkage for referrals to drug counseling and treatment services, and follow-up to those referrals to assure that participants receive the treatment they desire;
- (6) Educate injecting drug users on the dangers of contracting the HIV infection or the hepatitis B virus through needle-sharing practices and unsafe sexual behaviors;
- (7) Include policies and procedures for the screening of applicants to the Program in order to preclude noninjecting drug users from participating in the Program;
- (8) Establish procedures for identifying Program participants that are consistent with the confidentiality provisions of this subtitle; and
- (9) Establish a method of identification and authorization for Program staff members who have access to hypodermic needles, syringes, or Program records.

§ 24-804. Oversight committee.

- (a) Appointment.- The Mayor of Baltimore City shall appoint an oversight committee for the Program.
- (b) Composition.- The oversight committee shall consist of:
 - (1) Two representatives from academia who specialize in public health issues;
 - (2) One representative from law enforcement, nominated by the Secretary of the Department of Public Safety and Correctional Services;
 - (3) One representative of the Baltimore City Police Department;

(4) Two representatives from the Department of Health and Mental Hygiene, the Department of Juvenile Services, or the Department of Education, nominated by the Secretary of Health and Mental Hygiene;

(5) One representative of a Baltimore City community group;

(6) One representative of an AIDS advocacy group;

(7) One drug abuse treatment counselor;

(8) One recovering injecting drug user; and

(9) Up to three other individuals whom the Mayor of Baltimore City determines to be appropriate for appointment to the oversight committee.

(c) Duties and responsibilities.- The oversight committee shall:

(1) Provide advice to the Commissioner of Health and the Program Director on developing:

(i) Program operating procedures for the furnishing and one-for-one exchange of hypodermic needles and syringes to injecting drug users;

(ii) A plan for community outreach and education;

(iii) A protocol for providing a linkage for Program participants to substance abuse treatment and rehabilitation; and

(iv) A plan for evaluating the Program;

(2) Before the Program begins operating, review and make a recommendation to the Commissioner of Health for the approval or disapproval of:

(i) The Program operating procedures for the furnishing and one-for-one exchange of hypodermic needles and syringes to injecting drug users;

(ii) The community outreach and education plan;

(iii) The protocol for providing a linkage for Program participants to substance abuse treatment and rehabilitation; and

(iv) The plan for evaluating the Program; and

(3) Provide ongoing oversight of the Program and make recommendations to the Program Director or the Commissioner of Health regarding any aspect of Program procedures, operation, or evaluation.

§ 24-805. Director.

(a) Appointment.- The Commissioner of Health shall appoint a Director for the Program.

(b) Duties and responsibilities.- On or before July 1, 1994, with the advice and approval of the oversight committee, the Director shall develop:

(1) Program operating procedures for the furnishing and one-for-one exchange of hypodermic needles and syringes to injecting drug users;

(2) A community outreach and education program; and

(3) A protocol for providing a linkage for Program participants to substance abuse treatment and rehabilitation.

(c) Submission of procedures and plans prior to implementation.- The Director shall submit the operating procedures, the plan for a community outreach and education program, and the substance abuse treatment linkage protocol to the Commissioner of Health for approval prior to implementation.

§ 24-806. Collection of data; evaluation of particular issues; methodology.

(a) Required data.- The Baltimore City Health Department shall include in its Program operating procedures measures to collect the following data:

(1) The number of participants served by the Program;

(2) The length of time a participant is served by the Program;

(3) Demographic profiles of participants served by the Program that include:

(i) Age;

(ii) Sex;

(iii) Race;

(iv) Occupation;

(v) Zip code of residence;

(vi) Types of drugs used;

(vii) Length of drug use; and

(viii) Frequency of injection;

(4) The number of hypodermic needles and syringes exchanged;

(5) The number of participants entering drug counseling and treatment; and

(6) The number of referrals made by the Program for drug counseling and treatment.

(b) Required issues to be evaluated.- With the advice and approval of the oversight committee, the Baltimore City Health Department shall develop and implement a plan for Program evaluation that shall include the following issues:

(1) The prevalence of HIV among Program participants;

(2) Changes in the level of drug use among Program participants;

(3) Changes in the level of needle-sharing among Program participants;

(4) Changes in the use of condoms among Program participants;

(5) The status of treatment and recovery for Program participants who entered drug treatment programs;

(6) The impact of the Program on risk behaviors for the transmission of the HIV infection, the hepatitis B virus, and other life-threatening blood-borne diseases among injecting drug users;

(7) The cost-effectiveness of the Program versus the direct and indirect costs of the HIV infection in terms of medical treatment and other services normally required by HIV-infected individuals;

(8) The strengths and weaknesses of the Program; and

(9) The advisability of continuing the Program.

(c) Methodology.- As part of its plans for data collection and Program evaluation described under subsections (a) and (b) of this section, the Baltimore City Health Department shall develop and implement a methodology:

(1) For identifying Program hypodermic needles and syringes, such as through the use of bar coding or any other method approved by the oversight committee; and

(2) To perform HIV antibody testing on the residue left in a sample of hypodermic needles and syringes returned to the Program.

§ 24-807. Participant identification; confidentiality.

(a) Identification card and number.-

(1) Each Program participant shall be issued an identification card with an identification number.

(2) The identification number shall be cross-indexed to a confidential record containing pertinent data on the participant.

(b) Confidentiality.- Any information obtained by the Program that would identify Program participants, including Program records, is:

(1) Confidential;

(2) Not open to public inspection or disclosure; and

(3) Not discoverable in any criminal or civil proceeding.

(c) Disclosure.-

(1) Notwithstanding the provisions of subsection (b) of this section, upon the written consent of a Program participant, information obtained by the Program that identifies the Program participant may be released or disclosed to a person or agency participating in the Program.

(2) In addition to the provisions of paragraph (1) of this subsection, if a Program participant raises the issue of participation in the Program either as a subject matter or legal defense in an administrative, civil, or criminal proceeding, the Program participant waives the confidentiality as to identity provided under subsection (b) (1) of this section.

§ 24-808. Criminal liability concerning distribution of controlled paraphernalia.

(a) Immunity from crime of distributing controlled paraphernalia.- No Program staff member or Program participant may be found guilty of violating § 5-601, § 5-619, § 5-620, § 5-902, or § 5-904 of the Criminal Law Article for possessing or distributing controlled paraphernalia or drug paraphernalia whenever the possession or distribution of the controlled paraphernalia or drug paraphernalia is a direct result of the employee's or participant's activities in connection with the work of the Program authorized under this subtitle.

(b) Criminal liability generally.- Notwithstanding the provisions of subsection (a) of this section, a Program staff member or Program participant is not immune from criminal prosecution for:

(1) The redistribution of hypodermic needles or syringes in any form;

(2) Any activities not authorized or approved by the Program; or

(3) The possession or distribution of controlled paraphernalia or drug paraphernalia or any other unlawful activity outside of the Baltimore City limits.

§ 24-809. Criminal liability for use, possession, and distribution of controlled substances.

Except for violations of any laws that could arise from residue attached to or contained within hypodermic needles or syringes being returned or already returned to the Program, nothing in this subtitle provides immunity to a Program staff member or Program participant from criminal prosecution for a violation of any law prohibiting or regulating the use, possession, dispensing, distribution, or promotion of controlled dangerous substances, dangerous drugs, detrimental drugs, or harmful drugs or any conspiracy or attempt to commit any of those offenses.

[1994, ch. 360.]