

7.4.6 NMAC This rule was filed as 7 NMAC 4.6.

TITLE 7 HEALTH
CHAPTER 4 DISEASE CONTROL
PART 6 REQUIREMENTS GOVERNING THE HARM REDUCTION/SYRINGE EXCHANGE PROGRAM

7.4.6.1 ISSUING AGENCY: Department of Health, Public Health Division, Bureau of Infectious Diseases, 1190 St. Francis Drive, P.O. Box 26110, Santa Fe, New Mexico 87502-6110.

[9/30/99; Recompiled 10/31/01]

7.4.6.2 SCOPE: These regulations govern the creation and operation of harm reduction programs for the purpose of sterile hypodermic syringe and needle exchange pursuant to the Harm Reduction Act (Section 24-2C-1 et seq. NMSA 1978).

[9/30/99; Recompiled 10/31/01]

7.4.6.3 STATUTORY AUTHORITY: New Mexico Harm Reduction Act (Section 24-2C-1 et seq. NMSA 1978), the Public Health Act (Section 24-1-3 NMSA 1978) and the Controlled Substances Act (Section 30-31-25.1A NMSA 1978).[9/30/99; Recompiled 10/31/01]

7.4.6.4 DURATION: Permanent.

[9/30/99; Recompiled 10/31/01]

7.4.6.5 EFFECTIVE DATE: September 30, 1999, unless a later date is cited at the end of a Section or Paragraph.[9/30/99; Recompiled 10/31/01][Compiler's note: The words or paragraph, above, are no longer applicable. Later dates are now cited only at the end of sections, in the history notes appearing in brackets.]

7.4.6.6 OBJECTIVE: Regulations are required by the Harm Reduction Act to establish and regulate harm reduction programs that include syringe exchange programs as a component to reduce the transmission of blood borne viral infections among injection drug users, to encourage intravenous drug users to seek substance abuse treatment and ensure that participants in DOH authorized syringe exchange programs receive individual counseling and education to decrease the risk of transmission of blood-borne diseases, in accordance with Section 24-2C-1 NMSA 1978.

[9/30/99; Recompiled 10/31/01]

7.4.6.7 DEFINITIONS: as used in these regulations:

A. "Blood borne pathogens" means hepatitis B, hepatitis C, the human immunodeficiency virus and any other blood borne diseases as may be specified by the department of health.

B. "Biohazardous waste container" is a container that is certified by the occupational safety and health administration for the disposal of used or contaminated hypodermic needles and syringes.

C. "Community health services provider" includes agencies and organizations that provide health care services and prevention services to the citizens of the state of New Mexico, either through public or private funding. Examples include the department of health district health offices, private substance use treatment centers, and community-based organizations that provide outreach to injection drug users.

D. "Department of health (DOH)" refers to the New Mexico department of health. Department of health agencies that are involved in the regulation and evaluation of syringe exchange programs include the public health division (infectious

disease bureau and the office of epidemiology), the behavioral health services division and the division of health improvement.

E. "Fixed syringe exchange cite" is a building in which a department of health authorized syringe exchange program conducts syringe exchange sessions in accordance with the Harm Reduction Act and these regulations.

F. "Harm Reduction Act" is Section 24-2C-1 et seq. NMSA 1978.

G. "Harm reduction program" is a program that includes a department of health authorized syringe exchange program as a component and includes public health education activities for injection drug users. These activities must include, but are not limited to, education about the risks of needle sharing behavior, safer drug injection techniques, individual counseling encouraging safer sexual practices, safe disposal of contaminated syringes and education to decrease the risk of blood-borne diseases, and substance abuse treatment. Community health service providers that conduct department of health authorized syringe exchange programs are required to incorporate those activities into a comprehensive harm reduction program.

H. "Injection drug user" is a person who uses hypodermic syringes and needles to inject drugs (other than legally prescribed medications such as insulin, erythropoietin and testosterone) into their body.

I. "Medical director" is the medical director of the infectious disease bureau of the department of health or a physician designated by the secretary of the department of health.

J. "Mobile syringe exchange site" is a vehicle in which a syringe exchange program conducts syringe exchange sessions at various approved locations on department of health approved time schedules.

K. "Needle stick accident" is an event in which a syringe exchange program staff member, volunteer or client is inadvertently or intentionally stuck with a used contaminated hypodermic needle. It does not include the intentional injection of controlled or illegal drugs by injection drug users.

L. "Roving syringe exchange" is a syringe exchange session conducted by syringe exchange program staff traveling on foot during department of health approved time schedules at various approved locations.

M. "Syringe exchange program" is a program implemented by a community health services provider that is authorized by the department of health to exchange sterile hypodermic syringes and needles with Injection drug users who are enrolled in the department of health's authorized syringe exchange program.

N. "Syringe exchange program client" is an injection drug user who is enrolled in a department of health authorized syringe exchange and harm reduction program for the purpose of participating in harm reduction program activities and for exchanging syringes.

O. "Syringe exchange program identification number" is a unique identification number that is assigned by the department of health to the syringe exchange program client for the purposes of assuring the identity of the client, for tracking department of health authorized syringe exchange program utilization and for evaluating syringe exchange program outcomes.

P. "Syringe exchange program membership card" is a plastic-laminated, wallet-sized card issued by the department of health through its authorized agents to the syringe exchange program client at the time of enrollment that entitles the injection drug user client to participate in the department of health authorized syringe exchange program.

Q. "Syringe exchange program provider" is a community health service provider that is authorized by the department of health pursuant to a valid agreement to exchange sterile hypodermic syringes and needles as part of a harm reduction program.

R. "Syringe exchange program staff" are employees of a community health services provider that participates in the activities of a currently authorized

department of health syringe exchange program who agree to abide by the requirements of the Harm Reduction Act and these regulations.

S. "Syringe exchange program supervisor" is a bona fide employee of a community health services provider that is responsible for directing the activities of a currently authorized department of health syringe exchange program and who agrees to abide by the requirements of the Harm Reduction Act.

T. "Syringe exchange program volunteer" is a person who participates in the activities of a currently authorized department of health syringe exchange and harm reduction program as a volunteer worker who agrees to abide by the requirements of the Harm Reduction Act and these regulations. U.

"Syringe exchange session" is a department of health approved scheduled time period during which a DOH authorized syringe exchange program exchanges syringes with clients in accordance with these regulations.

[9/30/99; Recompiled 10/31/01]

7.4.6.8 GENERAL PROVISIONS GOVERNING SYRINGE EXCHANGE PROGRAMS:

A. Community health services providers with relevant experience in providing disease prevention services, health care services, social services or substance use treatment services to injection drug users are eligible to apply to provide syringe exchange programs to the department of health in accordance with the Harm Reduction Act and these regulations.

B. Community health services providers that seek to implement authorized syringe exchange programs must submit a written proposal to the infectious diseases bureau of the New Mexico department of health that includes a syringe exchange program as part of a comprehensive harm reduction program to reduce the transmission of infectious diseases among injection drug users and encourage intravenous drug users to seek substance abuse treatment.

The proposal must include:

- (1) estimates of the number of injection drug users to be served and the information on which the estimate is made;
- (2) definition of the geographic area to be served by the syringe exchange and harm reduction program;
- (3) the proposed schedule and sites for syringe exchange sessions;
- (4) a list of the proposed harm reduction program staff and volunteers, and a description of their credentials including education and experience, qualifications and skills that relate to participation in a harm reduction program;
- (5) a description of the community health service provider's experience in providing relevant services to injection drug users;
- (6) a description of the harm reduction program services proposed to be provided directly by the community health;
- (7) a description of harm reduction program services proposed to be provided to syringe exchange program clients through referral to other agencies and a description of the referral mechanisms that are proposed to be used;
- (8) a description of efforts proposed by the community health service provider to solicit participation by residents, business owners, law enforcement officials and injection drug users in the design and implementation of the proposed syringe exchange program;
- (9) a description of security precautions for ensuring the confidentiality of syringe exchange and harm reduction program records;
- (10) a description of injection control practices and needle stick accident protocols; and,
- (11) a statement confirming that if approved, the community health service provider will participate in department of health authorized syringe exchange

C. The department of health shall review the proposals to determine whether they meet the statutory and regulatory requirements and whether there are sufficient numbers of unserved injecting drug users to justify the proposed Harm Reduction Act activities. Upon approval of the harm reduction program proposal, the community health service provider will be issued an agreement under which it is authorized to conduct a harm reduction program (including a syringe exchange program) under the auspices of the Harm Reduction Act for a period of one year. This authorization does not supersede other contractual arrangements between the department of health and the community health service provider.

D. Community health service providers that implement harm reduction programs must not utilize personnel, equipment or other resources funded by federal programs for the syringe exchange program. These resources may be used, however, for other harm reduction program activities that are demonstrably separate from the syringe exchange program.

E. Department of health authorized syringe exchange programs, must comply with regulations issued by the department of health. Failure to do so is grounds for revocation of the department's authorization to perform Harm Reduction Act activities including the syringe exchange program. Authorization to perform Harm Reduction Act activities is also subject to the availability of funds as determined by the department of health.

F. Department of health authorized syringe exchange and harm reduction programs must cooperate with the department of health in efforts to evaluate the efficacy of syringe exchange and harm reduction programs.

G. Department of health authorized syringe exchange programs must demonstrate that they respond to and make reasonable efforts to resolve all reasonable concerns raised by citizens of the neighborhoods in which the Harm Reduction Act activities are performed as well as reasonable concerns raised by community groups, community business people, law enforcement agencies and the department of health.

H. Department of health authorized syringe exchange programs are required to coordinate their efforts with other syringe exchange programs throughout the state to avoid duplication of efforts.

I. Department of health authorized syringe exchange programs must identify one qualified individual within their organization to serve as the syringe exchange and harm reduction program supervisor who is responsible for the performance of all Harm Reduction Act activities.

[9/30/99; Recompiled 10/31/01]

7.4.6.9 CLIENT ELIGIBILITY AND ENROLLMENT:

A. Only current injection drug users are eligible to be enrolled in the department of health authorized syringe exchange program.

B. The New Mexico Harm Reduction Act requires that participating clients carry a department of health issued card while participating in syringe exchange program activities that identifies the person as a participant in a department of health authorized syringe exchange program that is conducted in accordance with the Harm Reduction Act standards.

- (1) The membership card shall not bear the client's name, but it must have unique identifying information for that specific client. The membership number will be a code generated from letters of the first and last name and from the client's birth date. The client can use the card to demonstrate that the client is an enrolled syringe exchange program participant who is in possession of hypodermic syringes or needles at the time he is directly and immediately engaged in a harm reduction program as provided in the Harm Reduction Act.
- (2) Upon enrollment, a department of health authorized Harm Reduction Act program, each new client will be required to accurately complete an intake form about his/her current drug use, needle sharing habits,

syringe disposal habits and the client's thoughts about their recovery options. All information provided to the syringe exchange program by people seeking enrollment is confidential pursuant to state and federal law, except for the information the department of health requires the syringe exchange program to provide.

C. Enrollment of clients in a department of health approved syringe exchange program.

(1) Eligibility:

- (a) Eligibility is limited to citizens of the state of New Mexico who are 18 years of age or older.
- (b) People seeking enrollment into syringe exchange programs are required to be current injection drug users.

(2) Enrollment:

- (a) People seeking syringe exchange program enrollment must present personal identification that confirms the information used to generate the syringe exchange program identification number (the required information includes, first name, last name, and date of birth).
- (b) Syringe exchange program clients are allowed to exchange syringes at any department of health authorized syringe exchange program in the state of New Mexico. However, clients must seek initial enrollment in only one program. Syringe exchange program clients shall not be enrolled in more than one active authorized program at a time.
- (c) People seeking department of health authorized syringe exchange program enrollment must participate in completing a program intake survey. This requirement cannot be waived except by the medical director of the infectious disease bureau in the event of compelling, documented extenuating circumstances.
- (d) All information provided to the syringe exchange program by people seeking enrollment is confidential pursuant to New Mexico law (Section 24-1-20 NMSA 1978) and federal law, except for the information that the department of health requires the syringe exchange program to provide for the purposes of program regulation and evaluation.
- (e) Once eligibility has been confirmed and the intake form has been completed as required, the department of health authorized syringe exchange program clients will be issued a department of health authorized syringe exchange program participant card. The syringe exchange program staff will enter the syringe exchange program identification number and the membership expiration date (one calendar year following the date of enrollment) on the membership card. The card will then be laminated and given to the client.
- (f) Department of health authorized syringe exchange program clients must be instructed by syringe exchange program staff at the time of enrollment that the syringe exchange program membership card is for the use of the person to whom the card was issued only. Clients are required to carry the membership card when they are transporting syringes to and from the department of health authorized syringe exchange sites. Clients must be informed that syringe exchange program participation will not prohibit their arrest or prosecution for the possession of syringes at times other than when they are directly and immediately engaged in a Harm Reduction Act activity, pursuant to the Controlled Substance Act (Section 24-2C-1 et seq. NMSA 1978).
- (g) Department of health authorized syringe exchange program clients should be provided with 30 program syringes at the time of

enrollment. The authorized syringe exchange program must inform the clients that all subsequent exchanges will involve exchanging one used syringe for one sterile program syringe. The syringe exchange program must inform the client that each client who is enrolled in a department of health authorized program can exchange a maximum of 200 syringes per syringe exchange session.

- (h) Department of health authorized syringe exchange program clients must be given a schedule of the program's syringe exchange sessions, harm reduction program education information, a harm reduction kit and information about drug treatment options.
- (i) Department of health authorized syringe exchange program clients must be instructed at the time of enrollment that they should clean their syringes with bleach and water before bringing them to syringe exchange sites.
- (j) Department of health authorized syringe exchange program clients must be informed that failure to comply with syringe program rules can result in disenrollment and revocation of their department of health authorized syringe exchange program participation card.
- (k) The syringe exchange program must keep all enrollment records in a secure location with appropriate safeguards against theft or tampering. Any misappropriation, falsification or theft of department of health authorized syringe exchange program membership cards must be reported immediately to the infectious diseases bureau of the department of health. Failure to do so will result in the revocation of the department of health approval to operate a syringe exchange program.
- (l) All department of health authorized syringe exchange programs must provide the department of health with original client intake surveys and enrollment information for each calendar month not later than the fifteenth day of the following month.
[9/30/99; Recompiled 10/31/01]

7.4.6.10 SYRINGE EXCHANGE PROGRAM REQUIREMENTS:

A. The syringe exchange program must maintain a regular and predictable schedule for syringe exchange sessions that promotes participation by clients, staff and volunteers. The program should seek the advice of clients in determining the schedule of syringe exchange sessions and locations. The syringe exchange session schedule must be approved by the department of health, prior to its implementation, and the syringe exchange program must notify the department of health of any modifications to the schedule as soon as possible. The new schedule shall not be implemented before department of health approval has been received.

B. The syringe exchange program must provide information to syringe exchange program clients about the scheduled hours, dates and locations for syringe exchange sessions.

C. The syringe exchange program must demonstrate that it has attempted to address and resolve all neighborhood concerns regarding hours, dates and locations for syringe exchange sessions. The syringe exchange program shall conduct syringe exchange sessions in a manner that does not promote loitering, unruly behavior, unlawful activities, or that in any way detracts from the safety and serenity of the neighborhood. The syringe exchange program must notify the department of health within 72 hours of any concerns or complaints received by the program, its staff or volunteers.

D. The syringe exchange program must have at least two syringe exchange program staff present at all times at the exchange site during syringe exchange sessions. Staff members must be 18 years of age or older and must not be active users of illicit drugs. Syringe exchange program staff must be approved for

participation in the syringe exchange program by the department of health. Staff members must carry syringe exchange program cards that identify them as department of health authorized syringe exchange program staff.

E. All syringe exchange program staff must be vaccinated against hepatitis B virus if they are not immune to hepatitis B virus unless they have a specific contraindication for receiving the hepatitis B vaccine. People who have been vaccinated against hepatitis B virus or infected with hepatitis B in the past may be immune. An HIV early intervention nurse or other public health staff of the department of health can administer a simple blood test to determine immunity to hepatitis B. The department of health will administer hepatitis B vaccine to syringe exchange program staff at no cost. Repeat vaccinations are required one month later and then six months later. All three shots are required for the vaccine to be effective at preventing hepatitis B virus infection.

F. Syringe exchange program staff must teach all syringe exchange program clients to wash their used syringes out with water and bleach before they bring them in to be exchanged. This cleansing procedure helps to reduce the chance that used syringes are contaminated with hepatitis B, hepatitis C or HIV. Clients must be told to bring used needles in with the caps on the needles if possible. Except under unusual circumstances, the clients should handle their used syringes themselves during the exchange and deposit them directly into the biohazardous waste (sharps) container. It should not be necessary for the syringe exchange program staff to handle the used syringes and syringe exchange program volunteers should never handle used syringes.

G. Syringe exchange program staff must always wear medical gloves when handling used syringes or when handling biohazardous waste (sharps) containers. A sharps container approved by the U.S. occupational safety and health administration must be used. The outside of the sharps container must be cleaned with disinfectant and bleach at the beginning and end of each syringe exchange session.

H. Syringe exchange program staff must never directly touch a used syringe, even with gloved hands. Syringe exchange program staff must use tongs to handle the used syringes and keep the syringe far away from the staff person's body or anyone else's body. Syringe exchange program staff must never try to re-cap a syringe, or hold a used syringe over any part of the handler's body.

I. The syringe exchange staff must ask the syringe exchange program client to drop the used syringes into a sharps container one at a time as soon as possible during the exchange. Used syringes shall not be placed or allowed to accumulate outside of the biohazardous waste container.

J. The syringe exchange staff must never reach into a sharps container, force syringes down into the mouth of a sharps container or overfill a sharps container.

K. The syringe exchange staff must always put the cover on the mouth of the sharps container when the sharps container is not being used or when it is full.

L. In addition to the two syringe exchange program staff members, the syringe exchange program may include syringe exchange program volunteers in the staffing of a syringe exchange session. Volunteers must be at least 18 years of age and must not be injecting or illicit drug users, unless they are enrolled and participating in all facets of the Harm Reduction Act activities. Volunteers must carry program cards that identify them as syringe exchange program volunteers.

M. The syringe exchange program must maintain at the syringe exchange session site a copy of the department of health letter authorizing the program to conduct a syringe exchange program, a copy of the Harm Reduction Act, a copy of the syringe exchange program policies and list of emergency telephone numbers.

N. The syringe exchange program must make a telephone (fixed or mobile) available to syringe exchange program staff during the syringe exchange session.

O. Syringe exchange program staff and volunteers must treat syringe exchange program clients respectfully and in a manner that promotes client enrollment, participation and retention.

P. Syringe exchange program staff must have the prerogative to shut down a syringe exchange session in the event of any occurrence that affects the safety, security, confidentiality or effectiveness of a session.

Q. Syringe exchange program staff must shut down a syringe exchange session in the event of any violent act or threat of violence. Staff must have the option to summon the police in the event of an occurrence that raises security concerns.

R. Syringe exchange program staff and volunteers must comply with legitimate requests from law enforcement officers and staff must not interfere in any way with a law enforcement officers in the performance of their lawful duties.

S. Syringe exchange program staff must immediately report to the department of health all needle stick accidents, violent acts, incidents involving law enforcement agents, and arrests of syringe exchange program clients, staff or volunteers during a syringe exchange session.

T. Syringe exchange programs should provide 30 program syringes to newly enrolled syringe exchange program clients. Newly enrolled clients are not required to bring in used syringes for exchange. Subsequently, the program should provide one sterile program syringe for each used syringe brought in by the client for exchange. The total number of sterile program syringes issued a participant during a syringe exchange session must not exceed the total number of used syringes brought in by the participant for exchange and the maximum number of syringes given any participant must not exceed 200 in any syringe exchange session.

U. Syringe exchange programs should provide equipment for cleaning used syringes, such as bleach kits, to syringe exchange program clients.

V. Syringe exchange programs should provide risk-reduction materials to syringe program clients to increase the safety of sexual activity.

W. Syringe exchange program staff must maintain logs of syringe exchange session events that include:

- (1) the syringe exchange program participant card numbers of syringe exchange program clients who exchanged syringes;
- (2) the number of used syringes that were brought in by each client for exchange;
- (3) the number of program syringes that were issued to each client;
- (4) the harm reduction program activities that were offered to each client;
- (5) the harm reduction program activities in which each client elected to participate;
- (6) written reports of any client complaints about the syringe exchange program;
- (7) written reports of any complaints about the syringe exchange program made by members of the community; and,
- (8) written reports of any interactions between law enforcement agents and participants in the syringe exchange session.

X. Syringe exchange programs will provide copies of the complete syringe exchange logs for each calendar month to the infectious diseases bureau of the department of health not later than the fifteenth day of the following month.

Y. Syringe exchange programs will assure the safe and legal disposal of biohazardous waste containers that contain used syringes collected during syringe exchange sessions.

Z. By prior arrangement, syringe exchange programs must accommodate requests from the department of health to conduct public health interventions or syringe exchange program evaluations at syringe exchange sessions.

AA. If a person is stuck with a contaminated needle, it is very important to seek medical attention immediately. The department of health recommends beginning HIV medications within 1 or 2 hours of a needle stick accident whenever possible. In the event the skin is broken by a contaminated needle, the needle-stick accident protocol contained in the syringe exchange program protocol book should be followed and the person who has been stuck should go to the nearest emergency room as quickly as possible for treatment.

BB. Syringe exchange program staff who have had a needle stick accident, should have their blood tested again two months and six months after the needle stick to make sure that they have not been infected with hepatitis B, hepatitis C or HIV.

[9/30/99; Recompiled 10/31/01]

7.4.6.11 SYRINGE EXCHANGE PROGRAM CLIENT REQUIREMENTS:

A. Syringe exchange program clients must present their syringe exchange program participant card to syringe exchange program personnel in order to exchange syringes. Program staff should challenge the validity of the participant card if it is questionable and clients should be prepared to provide information that will confirm their membership to program staff.

B. Syringe exchange program clients may request that the syringe exchange program provide one sterile program syringe for each used syringe that the client brings to the syringe exchange session. Clients may exchange up to, but not more than, 200 syringes per syringe exchange session.

C. Syringe exchange program clients should clean used syringes intended for exchange with water and bleach before coming to the syringe exchange session in order to reduce the risk of infectious disease transmission. Clients should bring used syringes to the syringe exchange session with the needles capped.

D. During the syringe exchange session, the syringe exchange program client should carefully drop each used syringe into the biohazardous waste container one at a time while a syringe exchange program staff member counts the number of used syringes. These numbers must be recorded in the syringe exchange session log.

E. Syringe exchange program clients should treat syringe exchange program staff and volunteers courteously.

F. While in the vicinity of the syringe exchange site, syringe exchange program participants must conduct themselves in a manner that does not attract negative attention to the syringe exchange program. Participants must not loiter at the syringe exchange site after they have concluded their syringe exchange activities.

G. Syringe exchange program clients must not carry weapons or illicit drugs to the syringe exchange session.

H. Syringe exchange program clients must abide by the rules and regulations of the syringe exchange program. Failure to do so could result in disenrollment from the program.

[9/30/99; Recompiled 10/31/01]

HISTORY OF 7.4.6 NMAC: [RESERVED]