



California Legal Code Related to Access to Sterile Syringes

The following sections of California Health and Safety Code and Business and Professions Code regulate the possession of hypodermic needles and syringes (hereafter “syringes”) and other injection equipment, authorization of syringe services programs (SSPs, also known as syringe exchange programs, or SEPs), sale or provision of syringes by physicians and pharmacies, and syringe disposal.

Syringe Services 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 or any materials deemed by a local or state health department to be necessary to prevent the spread of communicable diseases, or to prevent drug overdose, injury, or disability to participants in SSPs authorized by the public entity.

[California Business and Professions \(B&P\) Code Section 4145.5\(e\)](#) requires SSPs 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 Syringe Services Programs and Responsibilities of Local Health Officer

[H&S Code Section 121349.1](#) allows local governments to authorize SSPs in consultation with the California Department of Public Health (CDPH), as part of a network of comprehensive services, including treatment services, to combat the spread of HIV and blood-borne hepatitis infection among people who inject drugs.

[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 SSPs on a biennial basis (every other year) in order to address and mitigate any potential negative impact of SSPs.

[H&S Code Section 121349.3](#) requires the local health officer to present biennially at an open meeting of the board of supervisors or city council a report detailing the status of SSPs, including, but not limited to, relevant statistics on blood-borne infections associated with needle sharing activity and the use of public funds for these programs. Notice to the public shall be sufficient to ensure adequate participation in the meeting by the public. For SSPs authorized by CDPH, a biennial report shall be provided by the department based on the reports to CDPH from SSPs within the jurisdiction of the local health officer.

State Authorization of Syringe Services Programs

[H&S Code Section 121349](#) allows CDPH to authorize SSPs in locations where the conditions exist for the rapid spread of viral hepatitis, HIV or other potentially deadly diseases.

Individual Possession of Syringes and Other Injection Equipment

[HSC Section 11364](#) governs the possession of drug paraphernalia. HCS 11364(c) states individuals may possess syringes for personal use if acquired from a physician, pharmacist, authorized SSP or any other source that is authorized by law to provide syringes without a prescription.

[HSC Section 121349.1](#) states that SSP participants shall not be subject to criminal prosecution for possession of syringes or any materials deemed by a local or state health department to be necessary to prevent the spread of communicable diseases, or to prevent drug overdose, injury, or disability acquired from an authorized needle and syringe exchange project entity.

[HSC Section 11364\(b\)](#) states that it is lawful to possess syringes, regardless of source, if they are containerized for safe disposal in a container that meets state and federal standards for disposal of sharps waste, such as a standard sharps container distributed by SSPs.

Number of Syringes

Neither Health and Safety Code nor Business and Professional Code include a limit to the number of syringes an individual can possess

Age Requirements

[BPC Section 4145.5\(b\)](#) permits pharmacists and physicians to furnish or sell, without a prescription, an unlimited number of syringes to adults age 18 and older for disease prevention purposes.

[HSC Section 121349.1](#) states that SSP “participants shall not be subject to criminal prosecution for possession of syringes or any materials deemed by a local or state health department to be necessary to prevent the spread of communicable diseases, or to prevent drug overdose, injury, or disability acquired from an authorized needle and syringe exchange project entity.” It does not specify an age requirement. An authorized SSP may provide syringes to anyone, regardless of age, as part of services to prevent HIV and hepatitis C.

Sale or Provision of Syringes by Licensed Pharmacists and Physicians

[B&P Code Section 4145.5\(b\)](#) permits pharmacists and physicians to furnish or sell, without a prescription, an unlimited number of syringes to adults age 18 and older for disease prevention purposes.

Nonprescription Sale of Syringes in Pharmacies

[B&P Code Section 4145.5](#) permits the nonprescription sale of syringes by California pharmacies. 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 from both the Office of AIDS and the Board of Pharmacy websites. 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 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 SSPs 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.