



California
Department of
Health Services

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Director

State of California—Health and Human Services Agency
Department of Health Services



ARNOLD SCHWARZENEGGER
Governor

November 10, 2005

**TO: CALIFORNIA CONFERENCE OF LOCAL HEALTH OFFICERS
CALIFORNIA CONFERENCE OF LOCAL AIDS DIRECTORS
HIV EDUCATION AND PREVENTION COORDINATORS
AND CALIFORNIA SYRINGE EXCHANGE NETWORK**

**SUBJECT: ASSEMBLY BILL 547 (BERG) SYRINGE EXCHANGE AND CLEAN
NEEDLE PROGRAMS**

The purpose of this letter is to inform you of changes to the California Health and Safety (H&S) Code made by Assembly Bill (AB) 547 (Berg) which was signed by Governor Schwarzenegger and goes into effect January 1, 2006. The bill amends previous legislation (AB 136, Mazzoni) to allow counties and cities to authorize syringe exchange programs (SEPs) in their jurisdictions without the necessity to declare a state of local emergency. The purpose of AB 547 is to simplify the procedure for SEP authorization in order to encourage the integration of syringe exchange into HIV and viral hepatitis prevention efforts throughout the State of California.

Five years ago, AB 136 was signed into law, creating H&S Code Section 11364.7. The law read, in part:

“No public entity, its agents, or employees shall be subject to criminal prosecution for distribution of hypodermic needles or syringes to participants in clean needle and syringe exchange projects authorized by the public entity pursuant to a declaration of a local emergency due to the existence of a critical local public health crisis.”

Thus, H&S Code Section 11364.7 protects local government organizations, their employees, and authorized subcontractors in local health jurisdictions that have declared a local health emergency from criminal prosecution for distribution of syringes. The requirement to declare a local emergency has been rescinded by the new legislation.

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Instead, political officials of counties and cities may authorize SEPs contingent upon consultation with the California Department of Health Services (CDHS) (H&S Code Section 121349.1). Additionally, the new law requires the local health officer to present annually at an open meeting of the board of supervisors or city council “a report detailing the status of syringe exchange programs including, but not limited to, relevant statistics on blood-borne infections associated with needle sharing activity. Law enforcement, administrators of alcohol and drug treatment programs, other stakeholders, and the public shall be afforded ample opportunity to comment at this annual meeting” (H&S Code Section 121349.3).

CDHS, Office of AIDS (OA) is responding to the requirements of the legislation in three ways. First, in order to facilitate the authorization of local SEPs, the consultation with CDHS required by the law will be completed through the local health officer or his or her designee contacting OA staff responsible for program oversight. These staff will also be available to provide technical assistance, relevant research and answers to questions about SEPs and HIV prevention strategies. Additionally, OA staff are prepared to assist local health jurisdictions by providing relevant data on injection-related HIV risk within each jurisdiction.

Second, in conjunction with health officers and SEP directors, OA will develop and issue guidance for the reports which health officers must make to city councils and boards of supervisors on an annual basis. Once the report is presented, OA requests a copy of the report be sent to our office in order to assist us in our collection of data on the effectiveness of SEPs statewide.

Lastly, in January 2006, OA will launch a new, statewide technical assistance initiative which will provide help to local health jurisdictions and community-based organizations interested in expanding their HIV prevention services to include syringe exchange. Technical assistance will also be made available to existing SEPs through the initiative in order to stabilize, improve or expand their services.

Injection drug users (IDUs) continue to be at high risk of HIV and viral hepatitis infection in California. Sharing of contaminated syringes and other injection equipment is linked to 19 percent of all reported AIDS cases in the state. State data suggests that over 1,500 new syringe-sharing HIV infections occur annually.

In addition, there are an estimated 500,000 to 600,000 Californians currently infected with hepatitis C virus (HCV) with an additional 5,000 new infections annually. It is

estimated that 60 percent of these infections are related to injection drug use. Up to 90 percent of IDUs are estimated to be infected with HCV.

Scientific research continues to show that access to sterile injection equipment is associated with reduced risk of HIV infection and lower frequency of unsafe injection practices. With the recent enactment of Senate Bill 1159 (Vasconcellos, Statutes of 2004), which permits counties and cities to authorize over-the-counter syringe sales in pharmacies, an important step was taken to increase the availability of sterile injection equipment and reduce HIV infection among IDUs. However, not all IDUs have access to pharmacies which sell syringes, and pharmacies cannot offer the wraparound services, such as HIV testing and referral to drug treatment, that are standard at most SEPs.

CDHS/OA is committed to providing effective community- and culturally-appropriate HIV prevention in the State of California. Access to syringe exchange programs is unquestionably vital in the struggle to reduce the spread of HIV, HCV, and other blood-borne infections among IDUs, their sex partners, and their children.

If you have any questions or would like to register your city or county's authorization of syringe exchange, please call or e-mail:

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and California Syringe Exchange Network
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The full text of AB 547 is available online at the Website <http://www.leginfo.ca.gov/>
under "Bill Information."

ORIGINAL SIGNED BY:

Michael Montgomery, Chief
Office of AIDS