

Tips for Implementing SB 1159 in your Local Health Jurisdiction



Analysis and Mapping of Pharmacy Access to Syringes A Study of SB1159

Conducted
by

Valerie Rose, Dr.PH, MPH
Glenn Backes, MSW, MPH

2005-2007

We are grateful to the County Health Departments, Syringe Exchange Program Coordinators and Policy Makers who participated in the study from which this information was gathered. Our special thanks to: Alameda, Contra Costa, Fresno, Los Angeles, Marin, Riverside, Sacramento, San Francisco, San Joaquin, Santa Cruz, Shasta, Solano and Yuba County Public Health Departments and their AIDS Program Directors, the City of Los Angeles AIDS Program, and to Marin AIDS Project Point Program, Los Angeles Clean Needles Now!, Fresno Syringe Exchange Program, and Santa Cruz AIDS Project Syringe Exchange Program. We also wish to thank the appointed and elected officials who shared their perspectives and views about SB1159 in their Counties.

Additional technical support was provided by Rachel Anderson and the staff of Safer Alternatives thru Networking & Education (SANE), Ethan Nadelmann, Alberto Mendoza, Jim McCauley, Margaret Dooley-Samulli, Adreana Nunez and the staff of Drug Policy Alliance, Peter Simpson and the staff of Harm Reduction Services, Alessandra Ross and Tom Stopka, State Office of AIDS, Stephen David Simon, AIDS Coordinator for the City of Los Angeles, Martha Saly of Center for Health Improvement, Ricky Bluthenthal, RAND and California State Dominguez Hills, Alex Kral, RTI International, San Francisco Office, Richard Garfein, UC San Diego, Alexis Martinez, San Francisco State University, and the San Francisco Department of Public Health AIDS Office and San Francisco AIDS Foundation.

Finally, we appreciate the ongoing support of the California HIV/AIDS Research Program and our Project Officer, Susan Carter, JD.

**What We Have Learned:
Tips for Implementing SB 1159
Pharmacy Sale of Syringes
In Cities and Counties**

Valerie Rose, Dr.PH, MPH & Glenn Backes, MSW, MPH

Take up the effort to save lives! A comprehensive strategy to control HIV and hepatitis C in your area must include syringe access through needle exchange or pharmacy sale of syringes without prescription. Preferably both. This “tip-sheet” is not a how-to guide, but a compendium of what we learned from interviews with policymakers, health department staff, and activists in 11 counties that have, and have not, implemented SB 1159 pharmacy sale of syringes. Perhaps their experience will augment your skills and passion in order to establish better disease prevention policy in your City or County.

Getting Started

Pharmacists Out Front. Even if AIDS or harm reduction activists are doing most of the organizing work, you will need pharmacists in your planning group. AIDS Drug Assistance Program (ADAP) pharmacists or others that fill prescriptions for hepatitis or HIV medication may be your best bet to start. Also, a web search with your county name, and “pharmacist” “association” may reveal important allies.

Physicians, Nurses, Hospitals, Medical Groups & Schools. Health professionals and leaders of local medical associations and unions should be recruited to spearhead the effort within their organizations. The Dean of your medical school may be a persuasive advocate. Medical groups and hospitals are respected as employer-business leaders, as well as health professionals. Nurses and hospital workers’ unions may have clout with elected officials.

Savvy Political Groups. You need allies who know the elected officials, and are more aware of local political sensitivities. Gay and lesbian political clubs are natural allies—meet with them, join them. Contact your local Democratic or Republican Clubs as well. Web searches that include your County name, plus combinations of “Democratic” “Republican” “Stonewall” and “club” or “association” should reveal contact info.

Drug Treatment Community. Opponents of SB 1159 may try to label this as a pro-drug measure. Experts on drug addiction and treatment and harm reduction will help dispel this myth.

Needle Exchange/Syringe Exchange Programs (SEPs). Directors of syringe exchange programs have a wealth of experience to draw upon, both politically and in the service of drug using communities.

AIDS Service/Community Based Organizations. Their executive director or policy director should be called ASAP.

Hepatitis Advocates. Check www.calhep.org to see if there is a local organizing committee in your area. A web search of your City or County name, plus “hepatitis” might reveal local activists or experts you can work with.

Put Together your A-Team. A small group, 2 to 5 people, should represent your alliance in most meetings with elected officials or staff. A good team should be as diverse as possible, with medical professionals, including pharmacists, drug treatment leaders, family members, and people living with HIV or hepatitis, as well as your most articulate experts.

Pick your Target, Pick your Elected Sponsor. Are you trying to get a County authorization, or a City authorization? Approach a member of the County Board of Supervisors or the City Council to be your champion. He or she will tell you who else is a likely supporter or swing vote, and he or she will seek legal advice from Counsel on how to implement the policy. He or she can get meetings with law enforcement leaders, elected officials, and heads of medical groups or hospitals.

Local Policy Setting Bodies and the Local Public Health Department. Most County Boards of Supervisors will want to know that the local health officer actively endorses the authorization, and City Councils will want to be assured that the health officer has approved the County’s work that is involved in creating a pharmacy access program (e.g., registering pharmacies, providing health education materials). Make sure your health officer is well versed in the issue and is prepared to support the authorization.

The Art of Persuasion—Sterile Syringes Save Lives & Money

Lives. Your County HIV office and the State Office of AIDS website: www.dhs.ca.gov/aids/Statistics/ can help with accurate data on the number of persons with AIDS related to syringe sharing. Ask your local health department if they have data on hepatitis. Ask drug treatment programs about prevalence of drug injection in your area. Law enforcement websites or reports may also contain information on the extent of injection drug use in the region.

Money. The average lifetime cost to treat HIV is over \$266,000. An organ transplant caused by hepatitis-C-related liver disease costs more than \$300,000. County clinics, emergency rooms, hospitals, jail medical services, and local insurers are some of the many ways that taxpayers are footing the bill for poor prevention policy. Even a small pharmacy project could save millions of dollars by preventing these costly infections.

Efficacy & Cost-Benefit. Allowing adults to use their own money to buy syringes costs local government almost nothing. Of the Counties we interviewed, the highest amount spent on SB 1159 implementation was \$5000, used to improve disposal of used syringes. According to our research, staff time for the local health department to launch SB 1159 is not likely to exceed 40 total hours.

Cost Effectiveness. HIV prevention scholars have well documented the cost effectiveness of HIV prevention efforts including syringe exchange programs. A few journal article titles are included here for your reference.

1. Holtgrave DR, Pinkerton SD, Jones TS, Lurie P, Vlahov D. *Cost and cost-effectiveness of increasing access to sterile syringes and needles as an HIV prevention intervention in the United States.* J Acquir Immune Defic Syndr Hum Retrovirol. 1998;18 Suppl 1:S133-8.
2. Holtgrave DR, Pinkerton SD. *Economic implications of failure to reduce incident HIV infections by 50% by 2005 in the United States.* J Acquir Immune Defic Syndr. 2003 Jun 1;33(2):171-4.
3. Holtgrave DR. *Estimating the effectiveness and efficiency of US HIV prevention efforts using scenario and cost-effectiveness analysis.* AIDS. 2002 Nov 22;16(17):2347-9.

Program Efficacy. A national study of 96 metropolitan areas in the U.S. compared two groups of cities — those with legal pharmacy sale of syringes without a prescription and those that ban such sales. After controlling for numerous factors, the study found that in cities that ban sale of syringes without a prescription, the rate of HIV infection among IDUs was twice as high as those that allow pharmacy sale of syringes without a prescription. The study found no statistically significant difference in rates of drug use, drug injection or crime.

- Friedman SR, Perlis T, DesJarlais DC. *Laws prohibiting over-the-counter syringe sales to injection drug users: Relation to population density, HIV prevalence, and HIV incidence.* Amer. Journal of Public Health. 2001;91(5):791-793l.

Human Stories. Enlist people in recovery, people living with HIV/AIDS and hepatitis, their mothers, and loved ones to provide moving and influential testimony. This is useful to counter-balance the stories that opponents might tell which are often based on an appeal to fear or emotion.

Honesty. Be unfailingly honest. One lie or exaggeration could discredit your entire argument.

Articles. There are some articles in your advocacy packet, as well as a bibliography. More articles and reports are being published every year. Search Pub-Med at <http://www.ncbi.nlm.nih.gov/sites/entrez>.

Health Department and State Collaboration

The Health Officer. Our research indicates that Health Officers and AIDS Program Directors were very involved in preparing a recommendation for the County Board of Supervisors, and are highly knowledgeable about the workings of the Board. Additionally, there are specific boards or committees that advise health departments on such policies. Start with your Health Officer, Director of Public Health or the HIV Education and Prevention (E&P) program in your jurisdiction.

HIV Planning Group. Be sure to contact your HIV Planning Group and the State HIV Planning Group early in the process. Your local HIV Education and Prevention (E&P) Coordinator can tell you when the next meeting is scheduled. Ask the Planning Group to endorse pharmacy sale of syringes and to testify in future hearings. The name of your local E&P Coordinator can be found at the website for the California AIDS Clearinghouse at <http://www.hivinfo.org/>. Click on “Links and Resources” to find your local information.

Alcohol and Other Drugs. Get the Alcohol and Other Drugs (AOD) advisory board involved early; ask them to pass a resolution or endorsement supporting SB 1159 and to testify in future hearings. Either treatment program directors or the County AOD office should know how to begin the process.

State Office of AIDS. Members of your alliance or staff from the City or County can call the State Office of AIDS, Prevention and Policy Department for technical assistance on SB 1159 policies, procedures, evaluation and implementation at 916-449-5796.

The Policy Process

The Author: Your Elected Champion. Typically one member of a City Council or County Board of Supervisors will assign a staffer to research the practical application and political viability of a proposed action, and ask the Office of the City Attorney or the County Counsel to research the legal ramifications of a policy before introducing a proposal. The person who seeks this research is most likely your champion on the Council or Board, but they don't have to be. They may reserve judgment until the preliminary research is completed by staff.

Subcommittee. The proposal is typically placed on the agenda of a subcommittee for consideration before it is sent to the full Board or Council. At the County level, there is typically a subcommittee devoted to public health or health. Cities typically do not have a health committee, but will still probably send the idea to a subcommittee, based on municipal rules and norms.

Before the Hearings. The members of the City Council or County Board of Supervisors need to be educated well before the first subcommittee hearing. Most will form an opinion and decide on their vote before they walk into the chamber for public debate. You should be meeting with members based on the recommendation of your elected champion; ask them about appropriate timing for such meetings. You should tailor your delegation, when possible to reflect the interests of the individual member. Most importantly, you should bring supporters from the neighborhoods that the elected official represents, if possible. Secondly, political allies from the unions, business or LGBT community might be advisable, as well as your advocates from pharmacy, medical, AIDS and hepatitis control. In some, but not all jurisdictions, a subcommittee must vote in majority to send the issue to the full board. Again, meet with and educate policymakers before the hearing. Do not neglect to meet with conservatives or likely opposition. SB 1159 has won support from former law enforcement officers and social conservatives.

The Hearing. Generally speaking, hearings run in this order:

- Either the elected official or representatives of the health department present the rationale for supporting pharmacy sale of syringes. The health department staff is usually given ample time to present, and may be represented by several experts, including the department director, the health officer, the head of AOD, or environmental health and waste management.
- The Sheriff, District Attorney or Police Chief may then testify, or there may be other public safety or other officials asked to speak at this time. The County Counsel or City Attorney may also present, not in support or opposition per se, but on the legal aspects of the law and its implementation.
- Witnesses in support. This is where your prior planning and organizing comes into play. There is likely to be a time limit either on individual witnesses (i.e., 2 minutes) or your entire group (i.e., 30 minutes). Generally you will want to lead off with respected health professionals including pharmacists. Use your time to present the diversity of your support, with each speaker taking up different aspects of your supporting arguments. Plan and practice how to best use limited time. Not everyone needs to make a big speech. Your first few speakers should be your strongest, perhaps best known: Dean of the Medical School, head of the pharmacists' association, head of your major drug treatment center, union leaders, people living with HCV and HIV, families, and persons from the LGBT political clubs. It's your breadth of support that you want to represent, not that all of you are fluent on all the issues. You need to rebut the opposition in advance, because you won't be asked to respond to their assertions.
- Witnesses in opposition are up next. Be respectful and attentive. Most opposition has centered around: 1) the likelihood that syringes will be discarded in public; 2) that drug users are not competent to do the right

- thing even if given a chance; 3) that the evidence of syringe access preventing HIV is weak or wrong; and 4) that you are robbing law enforcement of a tool in fighting drugs and crime.
- The elected officials, Supervisors or Council Members, may ask questions at any time, and may even ask you to return to the microphone to address their questions.
 - The elected officials then discuss and debate their positions.
 - The vote. Unless they decide to postpone a vote for any reason.

Majority Rules. In the end, you need a majority, not consensus or unanimous votes, so don't waste time and energy on those who have already given you a firm "No." Keep organizing. If you do not have the majority votes you need now, start educating candidates for City and County offices. Work on campaigns for harm reduction candidates.

Law Enforcement Influence

A County District Attorney and Sheriff are elected County-wide. They not only view drug problems from a law enforcement perspective, they won more votes than any individual supervisor or council member. Their opinion matters in any discussion regarding illegal drug use and related policy decisions. In our research, their active opposition was highly correlated with local policymakers' failure to support SB 1159. It's notable that their statewide associations were neutral on SB 1159.

A Police Chief is not elected, but appointed by the Mayor and City Council. Even though he or she is not an elected official, it is normal for elected officials to seek the expert opinion of the Police Chief on SB 1159. The Police Chief's support or neutrality has been associated with successful passage of SB 1159 in at least one City in California. The statewide California Police Chief's Association, mainly Chiefs from smaller cities, were opposed to SB 1159.

Police Officers and Deputy Sheriff's unions and associations. Street cops and deputies are represented by unions or associations. Our research suggests that they have some limited influence on the outcome of SB 1159 authorization votes. Like other unions, they may participate in local elections through endorsements and contributions, and can be effective advocates for their positions.

Your Sponsor/Your Champion. Discuss with your elected sponsor the timing and approach to meeting with law enforcement leaders and union representatives. Same as other stakeholders, law enforcement may respond to scientific evidence which supports the fact that improved syringe access reduces the impact of disease.

Occupational Health & Safety. Law enforcement line officers frequently experience needlestick injuries, and the threat of hepatitis spread in California is understood well by line officers and management. They may respond to evidence that needle stick injuries will likely be reduced if drug users do not feel compelled to conceal syringes out of fear of arrest. (See: Groseclose SL, Weinstein B, Jones TS, et al. *Impact of increased legal access to needles and syringes on practices of injecting drug users and police officers – Connecticut, 1992-1993.* Journal of AIDS 1995, 10:73-81).

Disposal of Used Syringes

Recovery and disposal of used syringes are crucial public health functions. Implementing non-prescription sale of syringes provides a prime opportunity to address the topic of syringe recovery for diabetics and other users of take-home syringes, as well as injection drug users.

New legislation passed in 2006 regulates sharps waste. It is no longer legal to dispose sharps waste, including syringes, in waste containers meant for household garbage, recycling or organic waste. Even if syringes are placed in a rigid puncture proof container, it is not legal to place them in a regular garbage can. Although the statute has no set penalty for individuals who violate this law, it does increase pressure on local governments to develop safe disposal programs to meet the needs of all syringe users in the community.

Waste management. Cities and Counties are authorized pursuant to state law to use fees from waste and garbage collection to pay for syringe recovery programs. They can use these fees for public education, for purchase of sharps containers, mail-back containers or to develop local innovations to recover home-generated sharps waste.

Innovations in syringe disposal. Various counties have responded in different ways. In San Francisco, some pharmacists voluntarily take used syringes in for disposal. The County assumes the cost of their pick-up, transport and destruction. Shasta County has purchased rigid disposal kiosks that are available to the public at the toxic waste recovery sites, the same places that recover paint, oil and batteries. Marin County uses tipping fees at the local recycling centers.

Syringe exchange and recovery programs. Syringe exchange programs are uniquely well qualified to recover syringes from IDUs. However, these programs need additional funding for assuming responsibility of increased disposal. The cost of sharps containers, transportation and destruction of syringes is already a substantial expense to these typically under-funded programs.

Keep disposal in perspective. In the twenty-five year history of the AIDS epidemic in the United States, there has never been a known case of HIV or HCV infection related to syringes left on sidewalks or in parks, as opposed to the tens of thousands of Californians infected due to syringe sharing related to scarcity of clean syringes. Don't let the challenges of developing a good syringe recovery program block efforts to save lives in your community.

Working with the Press

Editorial boards. Throughout the state, editorial boards of newspapers have been very supportive of this policy, based on the available scientific evidence. Discuss with your sponsors and allies what effect, if any, an editorial from the paper might have. Send a cover letter, fact sheet and one or two studies to the editorial page editor (see your local newspaper's website), and request a brief meeting to discuss the policy.

News stories. TV and newspapers are attracted to the story, the drama and the controversy. They will want a 'human face,' someone in recovery, or someone who lost a loved one to HIV or hepatitis. They will also publish the facts from studies and your fact sheet. However, they will also purposefully seek out opposition. Decide whether news coverage will hurt or help your cause.

Letters to the editor. If there is any newspaper coverage, immediately follow up with 150-200 words about the effectiveness of syringe access. Stick to your strongest argument and be brief, because your letter will probably be edited.

Editorials. Write 400 to 600 words, to submit to the paper's editorial page editor. Unless you were invited to submit an editorial, you are not assured that your piece will appear, but if it is published it will be your best opportunity to state your case to the public and local policymakers. It's fair play for advocates to ask a respected physician, pharmacist or religious leader to lend their name to an editorial that is ghostwritten for them.

Implementation

Make it easy for pharmacists. Do not overburden them with paperwork or evaluation requirements. Reach out to them early on, providing the public health rationale for syringe sale, and easy-to-complete enrollment forms and education material for distribution.

Outreach to pharmacy chains. In most jurisdictions, large pharmacy chains have allowed regional managers to sign up every pharmacy at once in a streamlined process.

Consider strategic enrollment. Enroll pharmacies in areas of high need, areas where drug use is more common. Enroll 24-hour pharmacies. Enroll pharmacies in suburbs and other areas remote from syringe exchange programs.

Bridge clients to syringe exchange programs (SEPs). SEPs can handle disposal, provide sterile syringes, and help clients get into drug treatment, medical and social services.

Make it easy for drug users. Emphasize that no identification is required for adults; no pharmacy logbook will record their name, no hassle, no unfair mark-up for nonprescription ten-packs.

Evaluation

Although local governments and programs are not mandated by law to conduct evaluation of the impact of improved syringe access, all local health jurisdictions are encouraged to seriously consider evaluation from the very beginning. The legislation carries significant evaluation requirements for the state government, including changes in the estimated rates of: 1) needle sharing among IDUs; 2) blood-borne infection related to syringe sharing; 3) needle stick injuries to law enforcement officers and waste management employees; 4) drug crime or related crime in the vicinity of pharmacies, and 5) the number of discarded used needles and syringes near pharmacies or in the local health jurisdiction. It is incumbent on the State Office of AIDS through evaluation research and using surrogate markers to answer these evaluation questions. You can do your part in your jurisdiction by using existing evaluation instruments that others have designed (www.syringeaccess.com) or create your own tools. Your evaluation can be as simple as counting the number of brochures given to pharmacies, or become so cumbersome that it deters participation. Suggestions for simple, yet meaningful evaluation measures that several counties are using are shown below.

- Number of pharmacies eligible to participate in your County
- Number of pharmacies actually participating
- Estimated number of syringe customers week/month
- Number of syringes sold
- Cost of a ten-pack of syringes
- Number of pharmacies in your County that accept used syringes
- Number of reported discarded syringes near pharmacies or in your local health jurisdiction
- Change in SEP participation (if you have a SEP – information gained from the local SEP)
- Change in rate of crime near pharmacies (information gained from local crime statistics available for free on-line)

The provisions that allow for pharmacy sale of syringes to an adult, and for adult possession of syringes for personal use, will end on December 31, 2010, unless the Legislature and Governor pass subsequent legislation to amend that sunset date. The future success of this life-saving effort rests almost entirely on successful implementation of the law by Cities and Counties throughout California. Your careful work will save lives today. Your evaluation and feedback to the State Office of AIDS, and your research shared through publication, reports, formal testimony or informal phone calls or e-mails will have a tremendous impact in the debate in Sacramento in 2010.

Take up the effort to save lives. Don't be deterred.

Our many thanks to you who have already taken up this effort, and educated us about the challenges you have faced and the successes you have enjoyed.

***We hope these tips help you to establish a pharmacy access program in
your City or County***

For further information, please contact:

The authors:

Valerie Rose, Dr.PH, MPH, vjkose@gmail.com

Glenn Backes, MSW, MPH, glennbackes@sbcglobal.net

For information and technical assistance:

***Alessandra Ross, MPH
State of California
Office of AIDS
alessandra.ross@cdph.ca.gov***