State and Local Policies Regarding IDUs' Access to Sterile Syringes

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In many cities and states, laws and regulations make possession of syringes a crime and limit IDUs' ability to legally purchase syringes. As a result, IDUs who continue to inject often cannot follow prevention advice to use a sterile syringe for every injection. Several states also have restricted the funding or operation of syringe exchange programs (SEPs). On the federal level, funding to carry out any program of distributing sterile needles or syringes to IDUs has been prohibited by Congress since 1988.

As of 2004, injection drug use accounted for about one-fifth of all HIV infections and most hepatitis C infections in the United States.***(1,2)*** Injection drug users (IDUs) become infected and transmit the viruses to others through sharing contaminated syringes and other drug injection equipment and through high-risk sexual behaviors. Women who become infected with HIV through sharing needles or having sex with an infected IDU can also transmit the virus to their babies before or during birth or through breastfeeding.

To effectively reduce the transmission of HIV and other blood-borne infections, programs must consider a comprehensive approach to working with IDUs. Such an approach incorporates a range of pragmatic strategies that address both drug use and sexual risk behaviors. One of the most important of these strategies is ensuring that IDUs who cannot or will not stop injecting drugs have access to sterile syringes. (See the related fact sheet Access to Sterile Syringes.) This strategy supports the "one-time-only use of sterile syringes" recommendation of several institutions and governmental bodies, including the U.S. Public Health Service.***(3)***

IDUs share syringes and injection equipment for multiple reasons, but primarily because of legal and regulatory barriers limiting access to sterile syringes and laws making possession of syringes a crime.

What Laws and Regulations Affect Illegal Injection Drug Use?

Several interrelated laws and regulations restrict IDUs' ability or willingness to obtain and possess syringes:***(4)***

- Drug paraphernalia laws. These laws establish criminal penalties for the manufacture, sale, distribution, possession, or advertisement of any item used to produce and consume illegal drugs, including syringes. In 2002, 47 states, the District of Columbia, and the Virgin Islands had drug paraphernalia laws.
- Syringe prescription laws. These laws prohibit dispensing or possessing syringes without a valid medical prescription. In 2002, eight states and one territory had syringe prescription laws. In 2000, an analysis of state laws

showed that physician prescription of sterile syringes to IDUs is legal in 46 states; in two other states physicians have a "reasonable claim to legality."***(5)*** (See the related fact sheet, Physician Prescription of Sterile Syringes to Injection Drug Users.)

- Pharmacy regulations and practice guidelines. As part of their oversight responsibilities, state boards of pharmacy develop and enforce regulations and guidelines that cover many aspects of syringe sales, including display, advertising, record keeping, log books, customer identification, and assessments of customers' probable use. Twenty-three states have such regulations and guidelines. (See the related fact sheet Pharmacy Sales of Sterile Syringes.)
- Restrictions on syringe exchange programs. In some states, syringe prescription laws and drug paraphernalia laws effectively restrict the ability of syringe exchange programs (SEPs) to operate unless they are specifically exempted from the laws. (See the related fact sheet Syringe Exchange Programs.)

These laws and regulations are structural barriers that create a situation in which IDUs who continue to inject are advised to use only sterile syringes, but at the same time, are often prevented from carrying out this advice. Because holding on to or carrying syringes puts IDUs at risk of police searches, arrest, and criminal prosecution, they can be reluctant to participate in sterile syringe access or risk reduction initiatives such as syringe exchange or safe disposal programs.***(6)*** (See the related fact sheet Syringe Disposal.) This environment may increase transmission risks because IDUs who are concerned about being arrested for obtaining or carrying syringes are more likely than other IDUs to share syringes and injection supplies.***(7)***

What Has Been Done to Address Structural Issues?

Several states have undertaken initiatives to change syringe laws and regulations:

- In 1992, Connecticut partially repealed its laws and regulations that limited pharmacy sales of syringes and made possession of syringes a crime. This allowed pharmacy sales of up to 10 syringes without a prescription and legalized the possession of up to 10 drug-free syringes.***(8,9)***
- In 1993, Maine changed its laws to allow anyone aged 18 or older to purchase from a pharmacy any quantity of syringes.***(10)*** In January 1997, the state legislature adopted rules to permit legal syringe exchange and to remove the criminal penalties for possessing 10 or fewer syringes.
- In 1997, as part of a comprehensive HIV prevention bill, the Minnesota legislature changed its laws to allow pharmacies to sell up to 10 syringes without a prescription and permit individuals to legally possess up to 10 unused syringes at a time.
- In 2000, New York State changed existing syringe prescription and drug paraphernalia laws to allow persons 18 years and older to purchase and/or possess 10 or fewer syringes without a prescription and without being liable for arrest.***(11)***
- Other states have developed specific strategies to allow the legal operation of SEPs. For example, five states (Hawaii, Maryland, Massachusetts, New York,

and Rhode Island) and the District of Columbia have given their health departments the power to establish SEPs and to exempt them from drug paraphernalia laws. Three states (Connecticut, Massachusetts, and Rhode Island) have specifically exempted SEPs from their prescription laws.
- In some municipalities, public officials have sought legal authority to conduct SEPs by declaring a local state of public health emergency.
- In 1999, the American Medical Association, American Pharmaceutical Association, and other organizations called for state-level review of syringe laws and regulations.***(12)***

Some states have reported a benefical public health impact. For example, after the partial repeal of syringe laws in Connecticut, pharmacies in that state began to sell nonprescription syringes.***(9,13)*** As a result, more IDUs purchased syringes from pharmacies, syringe sharing decreased, and police reported fewer needle stick injuries.***(8)*** Further, there is no evidence that ensuring access to sterile syringes increases the number of persons who inject or the number of injections.***(14,15)***

Policy Considerations

At the community level, both public health and law enforcement have strong interests that must be supported. Public health seeks to reduce drug use and blood-borne transmission of disease by helping individuals enter substance abuse treatment and change their risky sexual and drug-use behaviors. Law enforcement has an equally strong stake in preventing and punishing the distribution and sale of illicit drugs. State and local initiatives aimed at legal and regulatory reform need to find ways to strike a middle ground so that the interests of both are served. Such efforts include:

- Supporting initiatives to expand and improve collaboration and understanding between public health and law enforcement. Encouraging review of the public health impact of current syringe prescription and drug paraphernalia laws and pharmacy regulations on the availability of sterile syringes to those IDUs who are unable or unwilling to stop injecting.
- Educating policy makers about the facts of injection-related transmission of blood-borne pathogens and the public health benefits of providing access to sterile syringes as part of a comprehensive public health approach.
- Carrying out initiatives to educate and inform community leaders, physicians, pharmacists, law enforcement, and the public about the importance of access to sterile syringes to IDUs as one component of a comprehensive approach to stopping drug use and reducing transmission of blood-borne diseases.

For More Information

Read *A Comprehensive Approach: Preventing Blood-Borne Infections Among Injection Drug Users,* which provides extensive background information on HIV and viral hepatitis infection in IDUs and on the legal, social, and policy environment. It also describes strategies and principles for addressing these issues.

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