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## *The Role of Pharmacies in Preventing HIV Among Injection Drug Users*

There is broad consensus in the public health and AIDS advocacy arenas that preventing the transmission of HIV by increasing injection drug users' (IDUs) access to sterile syringes\* is a scientifically sound, legitimate public health response to the significant number of HIV cases in the U.S. that are directly or indirectly tied to injection drug use. An emerging strategy is to increase IDUs' access to sterile syringes through retail pharmacies. This *AIDS Information Exchange* summarizes key research findings and recommendations related to this evolving issue.

*\*For the purposes of this publication, "syringes" refers to both syringes and needles.*

### ***Limited Access to Sterile Syringes and the Risk for HIV Transmission***

In the United States, more than one-third of AIDS cases are directly or indirectly linked to injection drug use and the sharing and reuse of unsterile syringes and other drug paraphernalia (1). In fact, injection drug use is the second most frequently reported risk behavior for AIDS (1). IDUs often share and reuse injection equipment, including syringes, because of barriers they encounter in obtaining sterile equipment. Increasing access to sterile injection equipment is therefore a key factor in stemming the spread of HIV (and other blood-borne pathogens such as the hepatitis B and C viruses) among IDUs, their sexual partners, and their children.



Several strategies currently help IDUs to obtain sterile syringes. A key strategy is to provide sterile syringes to IDUs through syringe exchange programs (SEPs). However, SEPs have a number of limitations. Many urban areas with high numbers of IDUs do not have SEPs or have too few to serve all the IDUs who want or need their services. Further, even where available, SEPs have limited locations and hours of operation. In some jurisdictions, SEPs are illegal and are subject to being shut down by law enforcement authorities at any time.

Another strategy is to provide IDUs with bleach kits and instruction on disinfecting drug injection equipment. However, neither disinfecting used syringes with bleach nor sterilizing them in boiling water-while considered effective if done correctly-is "as safe as using a new, sterile needle and syringe," according to a U.S. Public Health Service (PHS) recommendation (2). In practice, complying with the recommended bleaching regimen is challenging, given the multiple steps an IDU must take to follow it correctly. Several studies of IDUs' syringe cleaning practices indicate that most study participants used inadequate cleaning techniques (16,17).

As a result of these obstacles, many IDUs rely on illegal or "black market" sources of syringes such as drug dealers, needle dealers, and injection partners. These sources may provide used syringes that carry the risk of being contaminated with HIV or other blood-borne pathogens, thereby greatly increasing IDUs' risk of contracting HIV and other blood-borne diseases. Therefore, the PHS recommends that IDUs who continue to inject drugs should "use a new, sterile syringe to prepare and inject drugs" which is "obtained from a reliable source, e.g., pharmacies"(2).

### Why Pharmacies?

- **They are a reliable source of new, sterile syringes.** This is the most obvious benefit of obtaining syringes in a retail pharmacy.
- **They are conveniently located.** Pharmacies can be found in most neighborhoods.
- **They have extended hours of operation.** Many pharmacies open early in the morning and remain open until late evening. Some operate on a 24-hour basis.
- **They are staffed by trained medical professionals.** Pharmacists can provide sound medical advice about disease prevention and make referrals to appropriate community services.
- **They already have staff and supplies.** Pharmacies have the existing infrastructure to offer syringe sales as part of their ongoing services without requiring additional resources for staff and supplies.
- **They are safe.** Pharmacies provide a safer environment for IDUs to buy syringes than "black market" sources of syringes.
- **They provide privacy.** Pharmacies offer an alternative to individuals who do not want to be seen standing in line in front of a SEP van, thereby risking public exposure as a drug addict.

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In practice, however, there are a number of legal, regulatory, and attitudinal barriers that prevent IDUs from obtaining sterile syringes in pharmacies. Drug paraphernalia laws, which are designed to decrease drug abuse by criminalizing drug possession, have the practical effect of discouraging IDUs from carrying their own supply of syringes, thereby increasing the chances that they will share contaminated ones. Further, prescription laws require customers to have a doctor's prescription to purchase syringes and may also require syringe purchasers to meet intimidating requirements such as signing a pharmacy register. In addition, pharmacy board regulations, corporate or store policies, and the attitudes and practices of individual pharmacists may further hinder IDUs from obtaining sterile syringes in pharmacies.

Since PHS recommendations state that IDUs should use a sterile syringe *each* time they inject, it is vital that IDUs are given *multiple* means to obtain sterile syringes, thereby maximizing their opportunities to inject safely. Access to syringes through retail pharmacies should be one of several complementary strategies available to IDUs.

## Factors that Constrain IDUs' Access to Sterile Syringes

### The Legal Environment

Across the United States, a mosaic of state and local laws and regulations governing the possession, sale, and distribution of drug injection equipment—including syringes—limits the availability of sterile syringes for IDUs. These laws, which were adopted as part of a drug prevention strategy, have resulted in what has been called an “artificial scarcity” of sterile injection equipment with disastrous public health consequences for the nation's IDUs, their sexual partners, and children (3). Such laws fall into three main categories:

- *Drug paraphernalia laws.* These laws prohibit the manufacture, sale, distribution, possession, or advertising of a range of devices—including syringes and needles—known to be used to introduce illegal drugs into the body. Paraphernalia laws may discourage IDUs from carrying drug equipment including sterile syringes purchased from a pharmacy for fear of being arrested, thereby increasing the chances that an IDU will share injection equipment or obtain unsterile

equipment from black market sources. It is less clear to what extent such laws apply to pharmacies. Technically, a pharmacist could be found legally liable for selling a syringe to a customer if the pharmacist knew that it would be used to inject illegal drugs. Paraphernalia laws exist in most states (47 states, the District of Columbia, and the Virgin Islands have such laws, according to a 1996 survey) (3).

- *Syringe prescription statutes.* These statutes prohibit the dispensing or possession of hypodermic syringes without a valid medical prescription. Unlike drug paraphernalia laws which require prosecutors of the law to prove criminal intent, prescription laws are not concerned with intent: the simple act of dispensing or possessing a nonprescription syringe is itself a violation. Such laws understandably restrict over-the-counter sales of syringes to IDUs. Eight states and one territory (California, Delaware, Illinois, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and the Virgin Islands) have prescription laws (3).
- *Pharmacy regulations and practice guidelines.* Pharmacy regulations established by pharmacy boards or state health agencies under state law add further restrictions on syringe access. These regulations typically restrict pharmacists from selling syringes unless there is a lawful or legitimate medical purpose and may impose certain requirements on customers such as presenting valid identification. In addition, some jurisdictions have practice guidelines, established by state pharmacy boards, which impose similar restrictions. While not legally binding, guidelines carry the threat of professional sanction and, therefore, may discourage pharmacists from selling syringes to suspected IDUs. Twenty-three jurisdictions have pharmacy regulations or practice guidelines that restrict IDUs' access to syringes from pharmacies (3).

### Corporate or Individual Store Policies

In addition to the laws, regulations, and practice guidelines discussed above, pharmacists' syringe sale practices are also affected by the existence of corporate or store policies concerning over-the-counter sale of syringes, which may require employees to impose certain restrictions on who can purchase syringes (15).

## Pharmacists' Attitudes and Practices

While prevailing laws, regulations, practice guidelines, and store policies play an important role in pharmacists' decisions to sell syringes to suspected IDUs, they are not always the deciding factor. In practice, pharmacists often exercise a great deal of discretion in determining to whom and under what conditions they will sell syringes. In part, this is sometimes due to vagueness or contradictions in the language of the laws and regulations governing pharmacy syringe sales. But frequently pharmacists' personal attitudes toward selling syringes to suspected IDUs determine whether or not they sell to IDUs.

For example, studies have found that even where the sale of syringes without a prescription is legal, syringe sales to suspected IDUs is not routine practice. Individual pharmacists often selectively refuse to sell syringes to customers they suspect will use them to inject illegal drugs. Some may impose additional requirements such as insisting on seeing a prescription even if one is not required by law, requesting picture identification, requiring the customer to record his/her name and address in a store register, and asking for verification of diabetic status. These requirements tend to discourage IDUs from trying to purchase syringes from a pharmacy.

The following findings from studies of pharmacists' attitudes and practices regarding syringe sales to IDUs offer compelling evidence that the legal availability of syringes through pharmacies does not *necessarily* result in increased access for IDUs.

- In Louisiana, where the sale of syringes without a prescription is legal, only one-fourth of respondents in a multi-city study reported *ever* having sold syringes to customers whom they suspected were IDUs (5).
- In a Baltimore study, more than half of pharmacists surveyed reported engaging in practices (such as requiring picture identification) that inhibited non-prescription sales even though syringes can be legally purchased without a prescription in Baltimore (6).
- In Maine, where nonprescription sales of syringes are also legal, a majority (93.7%) of surveyed pharmacists said they were willing to sell syringes without a prescription but when questioned further, only a minority (less than 15%) was willing to sell to suspected

IDUs *with no additional requirements* for purchase (7).

According to available research, pharmacists' willingness to sell syringes to IDUs is influenced by a number of factors, including the degree of familiarity with a customer, the customer's appearance, and the customer's sobriety. The circumstances surrounding the sale can also affect a pharmacist's decision. For example, the presence of other customers might discourage some pharmacists from selling to suspected IDUs, while the availability of security staff might make some feel more comfortable with such sales (4,6).

Underlying pharmacists' reluctance or refusal to sell syringes to suspected IDUs are some common concerns, safety being the paramount one. Pharmacists with safety concerns fear that IDUs may pose a direct threat by acting violently or an indirect threat by discarding contaminated syringes outside the store. (Unlike needle exchange programs, pharmacies do not routinely collect and dispose of used syringes.) Others worry that IDUs may shoplift, scare away other customers, or encourage drug injecting and criminal activity near the store. However, it is important to note that very few serious incidents were reported in pharmacist surveys that specifically asked about negative experiences associated with syringe sales (4,7,8). In addition, some pharmacists have strong personal beliefs about drug use and are opposed to making it easier for IDUs to obtain syringes, believing that illegal and harmful drug use would increase as a result (4). Finally, legal and professional liability is an understandable concern for some pharmacists.

The findings above strongly suggest that changes in the laws governing access to syringes do not guarantee increased access for IDUs and that pharmacists often play the decisive role in whether or not IDUs obtain syringes in a pharmacy. Therefore, pharmacists' attitudes must be assessed and their concerns addressed if efforts to increase IDUs' access to sterile syringes through pharmacies are to succeed.

## IDU Attitudes and Practices

If syringes were to become more widely available to IDUs through pharmacies, would IDUs obtain them there? Would they be willing to pay for them and, if so, how much? A number of studies on the attitudes and practices of IDUs shed light on these questions.

Evidence suggests that if all legal barriers were removed a significant number of IDUs would exercise the option of purchasing some or all of their syringes in pharmacies. The most extensive evidence comes from Connecticut where, after the loosening of restrictions on nonprescription sales and possession of syringes, the proportion of IDUs who reported that they obtained syringes in pharmacies increased significantly. For example, one study found that the proportion of IDUs who reported purchasing syringes from a pharmacy after enactment of the new laws was 78% (versus 19% before the new laws) (9). Another study of Connecticut IDUs found that 72% reported buying some of their syringes from a pharmacy and, of these, 41% reported buying *all* of their syringes from pharmacies (10).

A 1997 study of participants of a Baltimore SEP supports these findings. While nonprescription syringe sales are legal in Maryland, it is a misdemeanor to possess injection equipment unless there is a legitimate

medical purpose. Further, the state pharmacy board requires syringe purchasers to show identification and a “good faith indication” of legitimate need. When presented with a hypothetical scenario in which these legal barriers and identification requirements were lifted, 92% of interviewees said they would “not have a problem” with obtaining syringes at a pharmacy. In addition, almost half of the interviewees who had named the SEP as their preferred syringe source under current conditions said they would switch to pharmacy purchases as their first choice given the hypothetical scenario (11).

The Baltimore study also yielded important information about the willingness of IDUs to pay for sterile syringes. When asked how much they would be willing to pay for a syringe, participants said they would be willing to pay an average of 10 times the wholesale cost, suggesting that pharmacies could charge enough per syringe to recoup operational costs.

### States That Have Revised Laws Pertaining to Pharmacy Syringe Sales

At least three states have revised their prescription and, in at least one case, drug paraphernalia laws in a effort to stem the spread of HIV and other blood-borne diseases among IDUs by increasing their access to syringes from pharmacies.

- **Connecticut.** In May 1992, the Connecticut legislature passed new laws rescinding a 14-year ban on pharmacy sales of nonprescription syringes and partially repealing restrictions on the possession of drug paraphernalia. The new laws allow for the pharmacy sale of up to 10 syringes without a prescription and possession of up to 10 “clean” (free of drug residue) syringes.
- **Maine.** In October 1993, a new law regulating pharmacy sales of syringes went into effect. The new law allows (but does not require) pharmacists to sell syringes without a prescription to anyone 18 years of age or older. However, an existing drug paraphernalia law and statute criminalizing possession and distribution of syringes used to inject illegal drugs were *not* repealed at the time. Therefore, while IDUs could legally purchase syringes in a pharmacy without a prescription, once they purchased them they were in violation of the law (7). To address this paradoxical situation, a bill was signed into law in 1997 that

removed the criminal penalties for the possession of 10 or fewer syringes (19).

- **Minnesota.** Modeled on the Connecticut initiative, the Minnesota Syringe Access Initiative became effective on July 1, 1998. Under a new law, individuals may now purchase up to 10 syringes in pharmacies without having to present a prescription. In addition, an individual may legally possess up to 10 unused syringes at a time. Participation by pharmacies is voluntary. Participating pharmacies are prohibited from openly displaying syringes or advertising their availability. Further, pharmacies are encouraged to supply information on HIV testing and prevention to customers. Importantly, pharmacies must also certify that they participate in activities that support proper syringe disposal, ranging from distributing a brochure about syringe disposal to customers to collecting used syringes from customers. This final provision is particularly noteworthy because it addresses one of the greatest concerns pharmacists have about selling syringes without a prescription safe disposal of used syringes.

## *The Connecticut Experience*

### **Changes in Paraphernalia and Prescription Laws**

Injection drug use has played a major role in the transmission of HIV in Connecticut. Half of all AIDS cases reported in Connecticut in 1992 were among IDUs (4). In response, the Connecticut legislature passed new laws in May 1992 intended to increase IDUs' access to sterile syringes in pharmacies with the goal of decreasing IDU-related transmission of HIV. The new laws allowed for the pharmacy sale of up to ten syringes without a prescription and possession of up to ten "clean" (free of drug residue) syringes. The change in laws in Connecticut has provided researchers and public health officials the opportunity to collect important data on the impact of changes in prescription and paraphernalia laws on the practices of IDUs and pharmacists.

### **The Impact of the New Laws**

Studies evaluating the effects of the new laws on pharmacist sale of syringes and IDUs' syringe purchases from pharmacies found that after the new laws went into effect:

- *the proportion of IDUs who purchased syringes in pharmacies increased substantially.* According to one four-city study that compared IDUs' syringe purchase practices before and after enactment of the new laws, the proportion of IDUs reporting ever having obtained a syringe in a pharmacy increased from 19% to 78% (9). These figures are supported from other Connecticut data showing that 72% of IDUs in one study and 68% in another reported buying some of their syringes from a pharmacy (10).
- *the proportion of IDUs who obtained syringes from less reliable sources decreased.* According to the four-city study cited above, the percent of IDUs who reported obtaining syringes on the street dropped from 88% to 74% and from 35% to 23% for syringes obtained from a shooting gallery (9). This demonstrates that when legal barriers are removed, many IDUs will choose to obtain some or all of their syringes in a pharmacy rather than from less reliable sources.
- *the proportion of syringe-sharing reported by IDUs decreased.* The same study demonstrated that the proportion of IDUs who reported ever sharing a syringe decreased from 68% to 52% after enactment of the new laws and, of those reporting "ever" sharing a syringe, there was a 39% decrease in reported incidents of sharing (9). This bolsters the view that removing legal barriers to obtaining syringes results in less sharing of syringes and lowered risk for HIV transmission.
- *pharmacists' reports of serious negative incidents related to nonprescription drug sales were minimal and were frequently related to improper syringe disposal.*

## *The State Boards of Pharmacy Response*

State pharmacy boards play a key role in providing professional direction and guidance to pharmacists. A 1992 nationwide survey of leaders of state pharmacy boards and state pharmacy association executives found moderate support for the repeal of prescription and paraphernalia laws and limited support for pharmacist participation in the sale, exchange, or distribution of syringes to IDUs (18). In general, state boards of pharmacy have taken a conservative stance when crafting regulations and practice guidelines related to nonprescription sale of syringes due to longstanding concerns about the association of such sales with illegal drug use. However, this may be slowly changing in response to mounting evidence indicating the positive public health benefits of increasing IDUs' access to sterile syringes.

At least one state board of pharmacy has adopted language supportive of the legal distribution of syringes for the purpose of reducing transmission of blood-borne diseases, including HIV. In May 1999, the Washington State Board of Pharmacy formally adopted a resolution which stated that it considered the distribution of sterile syringes for the purpose of reducing the transmission of blood-borne diseases a legal intended use. This new language clarifies a state syringe law that requires syringe retailers—including pharmacists—to make a determination that the syringe and other injection equipment will be used “for the legal use intended.”

The Board's new language also reinforces a 1998 state drug paraphernalia law that, while prohibiting the use of such paraphernalia for illegal purposes, does allow for the “legal distribution of injection syringe equipment through public health and community-based HIV prevention programs.” In order to meet this requirement, the Board recommends that pharmacists contact their local public health district so that their distribution of syringes to IDUs may be considered as part of the district's HIV prevention program.

To more fully implement this program, the Board plans to codify its interpretation into a rule so that all pharmacists may be assured that they are indeed in compliance with the law when they sell syringes to IDUs. Further, the Board plans to inform pharmacists about the changes through newsletter articles and pharmacy continuing education programs planned for this winter.

## States That Have Revised Laws Pertaining to

### **Recommendations for Increasing IDUs' Access to Sterile Syringes Through Retail Pharmacies**

The following recommendations are drawn from the articles reviewed for this publication. They should not be construed as representing the official views of the U.S. Conference of Mayors or the CDC.

- *Remove legal barriers to obtaining sterile syringes.* States and local jurisdictions should examine existing laws and regulations pertaining to possession and distribution of syringes and consider modifying or repealing those that restrict access to sterile syringes.
- *Establish an ongoing dialogue with pharmacists* through the professional organizations and educational institutions that serve them in order to enlist them as full partners in HIV prevention efforts targeted toward IDUs. A starting point of this dialogue should be the principle that increasing pharmacy access to sterile syringes by IDUs is a legitimate public health strategy.
- *Provide professional training to pharmacists* on the laws governing syringe sales; the medical, psychological, and social aspects of injection drug use, drug addiction, and substance abuse treatment; blood-borne infectious diseases; and HIV prevention strategies, particularly those targeted to IDUs.
- *Assess pharmacists' attitudes towards the sale of syringes to IDUs and identify strategies to address these.* Given the important role that the personal discretion of pharmacists plays in syringe sales to IDUs, pharmacists' attitudes toward such sales should be more widely assessed and specific strategies should be devised to respond to their concerns.
- *Design programs for safe disposal of used syringes.* One of the key concerns of pharmacists is the improper disposal of syringes used by IDUs. Therefore, providing IDUs with convenient ways to discard used syringes or educating them about safe syringe disposal can greatly reduce dangers associated with syringe disposal.
- *Ensure that HIV prevention efforts promoting increased access to syringes through pharmacies involve collaboration* between a wide range of partners including public health officials, state and local government officials, pharmacist organizations, state and national pharmacy boards, criminal justice and law enforcement authorities, substance abuse personnel, community members, and others.
- *Address access to sterile syringes as part of a comprehensive approach to preventing the spread of HIV and other blood-borne infections among IDUs.* Elements of a comprehensive approach might include programs for substance abuse prevention and treatment, community outreach programs that provide risk reduction education and counseling to IDUs, HIV counseling and testing programs tailored for and accessible to IDUs, primary health care, and vaccination against hepatitis B.

## Pharmacy Syringe Sales

### *Policies Regarding Nonprescription Sale of Syringes*

#### **American Medical Association (AMA)**

That the AMA strongly encourage state medical associations to initiate state legislation modifying drug paraphernalia laws so that injection drug users can purchase and possess needles and syringes without a prescription. (1997)

#### **American Pharmaceutical Association (APhA)**

APhA encourages state legislatures and boards of pharmacy to revise laws and regulations to permit the unrestricted sale or distribution of sterile syringes and needles by or with the knowledge of a pharmacist in an effort to decrease the transmission of blood-borne diseases. (1999)

#### **Association of State and Territorial Health Officials (ASTHO)**

ASTHO policy states that as a possible public health strategy to reduce the transmission of injection-related blood-borne infections, states should explore the removal of legal barriers such as drug paraphernalia and prescription laws, which criminalize the distribution and/or possession of needles and syringes. (1995)

#### **National Association of State and Territorial AIDS Director (NASTAD)**

NASTAD calls on state and local legislative bodies to increase access to sterile needles and syringes through needle exchange programs; to deregulate possession of needles, syringes and associated injection equipment as drug paraphernalia; to increase access to sterile syringes via sale by pharmacies; and to increase access to drug treatment for those individuals ready for such treatment.

NASTAD encourages each state health department to work with pharmacy boards and local law enforcement agencies to change local laws which would increase access to sterile injection equipment. (1997)

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