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GAVIN NEWSOM
Governor

January 28, 2022

Subject: Changes to California Drug Paraphernalia Laws and Effects on Public Health Programs

Dear Colleague,

During the past five years, California has experienced a startling [100% increase in drug overdose deaths](#) that was significantly compounded by the impact of the coronavirus pandemic on public health and medical services. The U.S. Centers for Disease Control and Prevention (CDC) began documenting national [increases in fatal opioid overdose](#) and [injection-related HIV transmission](#) early in the pandemic, including in California. Similarly, California Department of Public Health (CDPH) surveillance programs tracked sharp increases in fentanyl and psychostimulant overdose deaths, as well as molecular and time-space HIV clusters, coincident with the onset of the coronavirus pandemic.

Harm reduction services, including syringe services programs (SSPs), provide non-judgemental, evidence-based health and social services that are essential components of California's efforts to reverse these public health crises. The California State Legislature and Governor Newsom have expanded these programs by enacting legislation to increase funding for harm reduction services and remove criminal penalties that prevent people from accessing services. Recently, these changes include legislation that made it lawful for SSPs to distribute a wider array of safer drug use materials, made it lawful for anyone in California to possess syringes for personal use, and streamlined the ability of state and local governments to authorize new SSPs.

Key Points

- Anyone may possess an unlimited number of syringes for personal use in California. No one should be arrested, prosecuted, or denied services based on syringe possession for personal use.
- Anyone may possess safer drug use materials, including pipes and other non-injection drug use materials, when acquired from an SSP. SSP participants are exempt from criminal prosecution for possession of such items, and the law does not require documentation of having acquired the materials from an SSP.
- State and local government authorization of SSPs is exempt from review under the California Environmental Quality Act.



Distribution and Possession of Pipes and Other Drug Use Materials

In 2018, the legislature amended [Health and Safety Code 121349.1](#) (*Committee on Budget, Assembly Bill 1810, Statutes of 2018*) to exempt SSP staff and volunteers from criminal prosecution for possession, furnishing, or transferring “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” during participation in an SSP and exempt SSP participants from criminal prosecution for possession of such materials when acquired from an SSP. Materials designated in this manner and distributed by an SSP are not subject to criminal drug paraphernalia possession laws.

In 2019, the CDPH Office of AIDS (OA) newly designated several materials as necessary for disease and injury prevention pursuant to the law, and began supporting their distribution through SSPs through the Harm Reduction Supply Clearinghouse, which provides supplies to SSPs throughout the state.

In addition to a variety of safer injection supplies, **designated items include pipes and foil suitable for smoking** opioids and methamphetamine. Scientific evidence has found that sharing of non-injection drug use equipment may transmit disease, and that helping people transition away from injection drug use reduces the risk of disease transmission and injuries caused by injecting. Further background may be found in CDPH/OA’s publication [Smoking Supplies for Harm Reduction](#).

Syringe Distribution and Possession

In January 2021, [Business and Professions Code 4145.5](#) and [Health and Safety Code 11364](#) were amended (*Ting, Assembly Bill 2077, Statutes of 2020*) to make several changes to state law related to syringe possession and distribution. Most importantly, the changes removed all conditions on possession of syringes for personal use, and extended authorization for physicians and pharmacists to furnish syringes without a prescription to persons 18 years of age or older until January 1, 2026.

As a result, California law more clearly prioritizes public health goals related to sterile syringe possession:

- It is lawful to possess syringes for personal use in California.
- There is no limit on the number of syringes someone may possess for personal use, no age limit for possession, and it is lawful to possess syringes obtained from any source.
- Syringes may be furnished without a prescription by staff and volunteers of SSPs, pharmacists, and physicians.

Exemption from the California Environmental Quality Act (CEQA)

Effective from January 2022, [Health and Safety Code 121349](#) was amended (*Arambula, Assembly Bill 1344, Statutes of 2021*), to state that SSP applications for authorization by state or local government and subsequent SSP operations performed in accordance with the authorization are “exempt from review under the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code.” The amendment also made this exemption retroactive to cover SSPs authorized before 2022, stating that the exemption statute “is intended to be declaratory of existing law.”

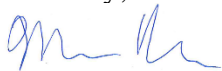
For Additional Background or Assistance

Please share the information in this letter with city and county officials, law enforcement and other criminal justice system partners in your local jurisdiction.

For legal citations related to these statutory changes and more information on California law pertaining to drug paraphernalia and harm reduction programs, please see the CDPH/OA fact sheet, “[California Law and Syringe Services Programs](#).” The CDPH/OA Harm Reduction Unit [webpages](#) provide more data and background. If you have additional questions, please contact Alessandra Ross, Harm Reduction Unit Chief, at alessandra.ross@cdph.ca.gov.

Thank you for your attention to this matter and for your commitment to supporting the health and safety of people who use drugs.

Sincerely,



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