



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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MEMORANDUM

DATE: January 25, 2011

TO: All Members of the Delaware State Senate
and House of Representatives

FROM: Ms. Daniese McMullin-Powell, ^{D.M.P./K.P.} Chairperson
State Council for Persons with Disabilities

RE: S.B. 13 [Needle Exchange Program]

The State Council for Persons with Disabilities (SCPD) has reviewed S.B. 13 which continues, without sunset, the needle exchange program. The goal of the program is to use a multi-faceted approach to reducing the spread of AIDS and other diseases in Delaware by encouraging drug addicts to seek treatment for their addiction, educating program participants on the dangers of contracting AIDS through needle use, and providing access to sterile needles. SCPD endorsed S.B. 60 in 2006 which requires the Division of Public Health to operate a pilot needle exchange program in the City of Wilmington. S.B. 13 would repeal the existing enabling statutes and substitute a new set of enabling statutes. Although the new enabling statutes would parallel the current law, there are a few differences:

A. The current law literally limits participants to City of Wilmington residents [Title 29 Del.C. §7990(4)]. The bill would eliminate that restriction (lines 46-47). SCPD endorses this provision since 70% of Delawareans with HIV/AIDS are in New Castle County (line 7), a rigid Wilmington residency requirement makes little sense.

B. The current law literally limits the program to a "1-for-1 exchange, whereby the participants shall receive 1 sterile needle and syringe unit in exchange for each used one" [Title 29 Del.C. §7992(2)]. The bill maintains safeguards but it would not impose the inflexible 1-1 exchange requirement in the statute (lines 60-64).

C. The current law requires the program to operate out of mobile vans [Title 29 Del.C. §7992 (9)]. The bill would eliminate this requirement.

D. The current law requires DPH to establish an oversight committee comprised of a law

enforcement representative, legislators, a recovered injecting drug user, physician, and member of faith community [Title 29 Del.C. 7994]. The bill modifies the required membership (lines 88-95).

The prudence of reauthorizing the needle exchange program is amply addressed in the preamble to the bill. Delaware has consistently ranked among the top ten states in the rate of new HIV cases with 70% of Delawareans living with HIV/AIDS living in New Castle County. Federal studies have demonstrated that needle exchange programs are effective in reducing the incidence of HIV/AIDS. Needle exchange programs have been endorsed by the American Medical Association, the American Academy of Pediatrics, the U.S. Conference of Mayors, the National Association of State Alcohol and Drug Abuse Directors, and a host of other groups. Consistent with the attachments, the Delaware HIV Consortium has compiled a supportive position paper and an impressive list of more than thirty (30) Delaware agencies which support the needle exchange program. The SCPD is included in the list of supporting agencies. It is important to note that the City of Wilmington, in which the program will exclusively operate, supports the needle exchange program.

SCPD strongly endorses the proposed legislation subject to consideration of two (2) amendments:

A. In line 47, the reference to "Section 7981" should be corrected to read "Section 7991".

B. While S.A. 1 limits the operation of the program to the City of Wilmington, the oversight committee includes "one elected official from each county" and "one citizen from each county" (lines 92-93). If the program is limited to the City of Wilmington, the merits of including representatives from Kent and Sussex Counties on the oversight committee should be reconsidered.

Thank you for your consideration and please contact SCPD if you have any questions regarding our position or observations on the proposed legislation.

cc: The Honorable Jack A. Markell
Mr. Brian Hartman, Esq.
HIV Consortium
Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council

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**Delaware HIV Consortium Policy Committee
Delaware Needle Exchange Program White Paper
September 2010
Policy Brief**

Problem Statement

Delaware is the second smallest state in the nation in terms of geographic size, yet its AIDS incidence rate is among the highest in the nation (19.8 cases per 100,000 residents in 2008), ranking consistently among the top ten each year in the rate of new AIDS cases per capita. Further, recent data indicates that the frequency with which AIDS cases are being diagnosed in Delaware is increasing in comparison with other states (10th in the nation in 2006; 6th in 2007).¹ The majority of new and existing HIV cases in Delaware are attributable to needle sharing and/or unprotected sexual contact with someone that has shared needles to inject drugs,² with Delaware's HIV infection rate from injecting drug users (IDUs) more than twice the national average.³

Needle exchange programs (NEPs)—also called syringe exchange programs (SEPs), syringe access programs (SAPs), and syringe services programs (SSPs)—have become a mainstream approach to substance abuse and HIV prevention in many countries for over twenty-five years.⁴ In 2006, the state of Delaware initiated a five-year pilot NEP in portions of the City of Wilmington for two primary purposes: (1) preventing the transmission of blood-borne illnesses including HIV and the hepatitis B virus; and (2) providing IDUs with referrals to appropriate treatment and other health and social services programs.⁵

In the three years of operation, Delaware's pilot NEP has been effective in meeting the purposes as outlined in the Delaware Code and successful in meeting or exceeding the majority of the goals established in its Implementation Plan. In doing so, it has become a key, cost-effective component of the state's HIV prevention and treatment strategy.^{6,7} Highlights of the program's accomplishments from inception through fiscal year 2010 (February 1, 2007 through June 30, 2010) include the following:

- 1,864 rapid HIV screenings provided to NEP clients and community members
- 179 persons tested for HIV for the first time
- 16 persons newly diagnosed with HIV enrolled into medical care
- 11 formerly-diagnosed HIV-positive persons re-connected to medical care
- 130 NEP clients enrolled into substance abuse treatment programs
- 28.6% of clients reporting reduced needle sharing

With the sunset date of the pilot program nearing—February 2012—it is critical that the program be re-authorized so that its benefits can continue into the future. At the same time, modifications to the program are needed in response to an evolving epidemic and as a result of the experiences gathered during the pilot program period. The Delaware HIV Consortium Planning Council, the Consortium's Policy Committee, and other supporters have made recommendations for the continuation and modification of the NEP in a corresponding White Paper. The White Paper provides summary information on the history and structure of NEPs in general and in Delaware,

proof of their efficacy, statistics on Delaware's pilot NEP, and an annotated bibliography. It concludes with recommendations for the program's continuation, grouped into three categories—capacity, flexibility and funding:

Recommendations for Delaware's Pilot Needle Exchange Program

1. Increase the NEP's Capacity to Serve More People:

- a. Move the NEP's status from "pilot" to "permanent". Change Delaware Code Title 29, Subchapter VIII, removing references to "pilot" and making the program "permanent" to assure that the NEP continues into the future.
- b. Extend the NEP's service area from "Wilmington" to "statewide". Statistics maintained by the Division of Public Health (DPH) provide a picture of the evolving nature of the HIV epidemic in Delaware. Areas of need regarding IDUs are not confined to the portions of the City of Wilmington currently approved for a NEP. As the epidemic further evolves, areas of need may shift with time.

2. Enhance Flexibility to Respond to Community Needs:

- a. Provide DPH and the NEP Oversight Committee with the flexibility to approve new locations throughout the state, as evidenced and justified by statistical need. Approving the NEP as a statewide program is the first step in reaching other locations of need, as justified by sound epidemiological data. DPH has proven an effective administrator of the current NEP, is the administrator of federal HIV/AIDS dollars in the state, and maintains statistics on the disease and information on emerging trends. Providing DPH with the flexibility to approve NEP sites—with the approval of the Oversight Committee and in conformance with the program's Standard Operating Procedures (SOP)—will assure successful implementation and operation of other program sites within new partner communities.
- b. Provide DPH and the NEP Oversight Committee with the flexibility to approve individualized NEP structures that are most responsive to the needs of participants and varying local communities. NEPs vary in design and operation with no one model working best for all communities. They are most successful, however, when they match good operational practices with the features of the community in which they operate. In a report published in 2009 and submitted to the CDC, a group of nationally-recognized NEP experts met to achieve consensus on the characteristics of NEPs that maximize their effectiveness and to highlight best practices. Delaware's NEP contains many of the suggested best practice approaches. It also contains several approaches the experts recommended avoiding because they limit effectiveness. These include the following: (a) enforcing a mandated exchange ratio, such as "one-for-one"; (2) disallowing by-proxy exchange (allowing someone else to exchange needles for another); and (3) limiting location and hours of operation.⁸ While these three practices may or may not need inclusion in any particular NEP established in Delaware, it is important that flexibility be provided to DPH to assure that the design

Needle Exchange Program Policy Brief

of a NEP satisfies the needs and concerns of a community, as well as program participants. As with recommendation 2a, providing DPH with flexibility of program design—with the approval of the Oversight Committee and in conformance with the program's SOP—will assure successful implementation and operation of new program sites.

3. Funding:

- a. Continue state funding for the NEP. The state of Delaware has supported the NEP program through its budget process. In December 2009, the federal government approved the use of federal dollars for NEPs but made no funding available to date and may not make any available in the future. At the same time, the availability of state dollars for the program assures that—should federal funding be budgeted along the lines of a Medicaid-type program that requires cost-sharing allocations—Delaware will be in a position to accept such federal dollars. The NEP has become a key part of Delaware's HIV prevention and treatment efforts. It is critical that state dollars remain in place to continue the program.
- b. Maintain and expand capacity to obtain any future federal funds released to support this evidence-based and proven HIV prevention program. Again, although no federal dollars are available to date, it is important to maintain current funding and expand the capacity of the existing program to assure that Delaware can access federal dollars when and if they become available.

References

1. Delaware Division of Public Health. 2008 Delaware HIV/AIDS Surveillance Report. 2008:1.
2. Delaware Department of Health and Social Services. Delaware Department of Health and Social Services Legislative Proposal Form SFY 2011. 2010:2.
3. Delaware Division of Public Health. Needle Exchange and Community Outreach, Questions and answer about the need in Delaware. October 2009:1.
4. amfAR AIDS Research. Fact Sheet No. 1, Revised November 2007. The Effectiveness of Harm Reduction in Preventing the Transmission of HIV/AIDS. Available at http://www.amfar.org/uploadedFiles/In_the_Community/Publications/The%20effectiveness%20of%20harm%20reduction.pdf.
5. Title 29 DE Code. Chapter 79. Department of Health and Social Services, Subchapter VIII Sterile Needle and Syringe Exchange Pilot Program for Prevention of AIDS and Other Diseases [Subject to sunset according to the term of Subsection 7997 of this title. Subsection 7992 (a)(b).
6. Delaware Division of Public Health. 2009 End-of-Year Report-Delaware 5-Year Pilot Needle Exchange Program. 2009:2-10.
7. Delaware HIV Consortium Planning Council and Delaware Division of Public Health. 2010-2014 Comprehensive HIV Prevention Plan and Statewide Coordinated Statement of Need. 2009:3-101.
8. Bluthenthal, R, Clear A, Des Jarlais D, Friedman S, Grove D, Hagan H, Heimer R, Heller D, Kral, A, Sherman S, Tolbert R. Results of A Consensus Meeting. Recommended Best Practices for Effective Syringe Exchange Programs in the United States. 2010: 4, 17, 26.

**Supporters of the Delaware HIV Consortium
Policy Committee and Planning Council
Position Paper on the
Delaware Needle Exchange Program
January 2011**

AIDS Delaware
Beautiful Gate Outreach Center
Brandywine Counseling and Community Services, Inc.
CAMP Rehoboth
Case Management Services, Inc.
Children & Families First
Christiana Care Health System
City of Wilmington
Community Housing and Empowerment Connections, Inc.
Community Legal Aid Society, Inc.
Connections Community Support Programs, Inc.
Delaware Adolescent Program, Inc.
Delaware Center for Justice
Delaware Council on Gambling Problems
Delaware Ecumenical Council on Children and Families
Delaware HIV Consortium
Each One Teach One
Family Services Assoc. Inc., Cecil County, MD
Gateway Foundation
Homeless Planning Council of DE
John Wesley Community Outreach Center
Integrated Social Solutions, Inc.
Kent Sussex Counseling Services

Kingswood Community Center
Latin American Community Center
League of Women Voters
Men of Distinction
Mental Health Association in Delaware
Ministry of Caring
National Alliance on Mental Illness in DE
Open Door, Inc.
Planned Parenthood of Delaware
Rose Hill Community Center
School Health Consulting
Stand Up for What's Right and Just
State Council for Persons With Disabilities
Temple United Church, Inc.
Thresholds, Inc.
West End Neighborhood House
Wilmington City Council
Wilm. City County, Ernest Congo II, Council Member
Wilm. City Council, Hanifa Shabazz, Council Member
Wilm. City Council, Justen Wright, Council Member
Wilm. City Council, Charles Potter, Council Member
Wilm. City Council, Loretta Walsh, Council Member
Wilmington Housing Authority

Note: Wilmington City Council will be introducing a resolution of support on February 3, 2011 and the names of the individual Council Members who given support already will be removed and the name of Wilmington City Council as a whole replacing them.

(as of January 24, 2011)