



Ohio Legislative Service Commission

Bill Analysis

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H.B. 92

130th General Assembly
(As Reported by H. Health and Aging)

Reps. Antonio and Sears, Foley, Rogers, Ashford, Stinziano, Fedor, Strahorn, Brown, Letson, Barnes, Bishoff, Johnson

BILL SUMMARY

- Permits a local board of health to establish a syringe exchange program for injection drug users to reduce the transmission of bloodborne pathogens and specifies that the program's cost is the board's responsibility.
- Permits a board of health to contract with a private, nonprofit organization to operate a program on the board's behalf.
- Provides that program employees, volunteers, and participants are not subject to criminal liability under current laws relating to the possession of hypodermics if certain conditions are met.
- Requires a board of health to include details about its syringe exchange program in its comprehensive annual report to the Department of Health.
- Requires the Department of Alcohol and Drug Addiction Services to adopt rules establishing statewide standards for wallet certificates issued to participants of syringe exchange programs.

CONTENT AND OPERATION

Syringe exchange programs

The bill permits a local board of health, following consultation with interested parties, to establish a syringe exchange program for the purpose of reducing the transmission of bloodborne pathogens among the residents of the city or general health district represented by the board. The bill defines "bloodborne pathogens" as HIV and

the hepatitis B and C viruses.¹ Each program is to provide sterile syringes or hypodermic needles to injection drug users in exchange for their used syringes or needles. "Injection drug user" is defined by the bill as a person who uses a syringe or hypodermic needle to inject a controlled substance into the person's own body. Controlled substances are drugs, both legal and illegal, that have a heightened potential for abuse, including opium, heroin, and a variety of pain killers.

Program costs and requirements

The bill specifies that the cost of a syringe exchange program is the responsibility of the board of health.² A board's program must, at a minimum, do all of the following:

(1) Provide a sterile syringe or hypodermic needle to each injection drug user in exchange for each respective used syringe or needle collected from the user;

(2) Dispose of used syringes and hypodermic needles in accordance with the law governing solid and hazardous wastes;

(3) Provide safety protocols and education to each injection drug user regarding the handling and disposal of syringes and hypodermic needles;

(4) Provide each injection drug user participating in the program with the information and means to protect the user, any person sharing the user's syringes or needles, and the user's family from exposure to bloodborne pathogens;

(5) Provide counseling to each injection drug user regarding exposure to bloodborne pathogens;

(6) Refer each injection drug user to the board of alcohol, drug addiction, and mental health services that serves the area in which the health district is located;

(7) Encourage each injection drug user to seek appropriate medical, mental health, or social services;

(8) Use a recordkeeping system that ensures that the identity of each injection drug user remains anonymous;

¹ R.C. 3707.37(A) and (B).

² R.C. 3707.37(A), (B), and (C)(1).



(9) Provide each injection drug user with a wallet certificate that states that the user is an active participant in the program.³

Program policies and procedures

A board of health must establish, in consultation with the interested parties specified below, policies and procedures for any syringe exchange program it establishes. These policies and procedures must address, at a minimum, all of the following:

(1) The content of the wallet certificate to be provided to each active participant in the program, including the certificate's expiration date as determined by the board, and the distribution of certificates to participants. These policies are subject to the standards established in rules to be adopted by the Department of Alcohol and Drug Addiction Services (see "**Rulemaking**," below).

(2) Notification of each relevant law enforcement agency regarding the program, including the location of each facility to be used by the program and the immunity from criminal liability granted by the bill;

(3) Provision of care to program participants in need of immediate medical attention at the time they receive syringes or hypodermic needles through the program;

(4) Compliance with applicable state and federal rules and regulations governing participant confidentiality.⁴

Consultation with interested parties

The interested parties that the bill requires a board of health to consult with when establishing a syringe exchange program must be from the health district represented by the board and include law enforcement representatives; prosecutors; representatives of state-certified alcohol and drug addiction programs; persons recovering from substance abuse; relevant private, nonprofit organizations, including hepatitis C and HIV advocacy organizations; residents of the health district; the board of alcohol, drug addiction, and mental health services that serves the area in which the health district is located; and any other interested parties selected by the board.⁵

³ R.C. 3707.37(C).

⁴ R.C. 3707.37(D).

⁵ R.C. 3707.37(E)(1).



When consulting, the board and interested parties must consider at least the following:

- (1) The scope of transmission of bloodborne pathogens through syringe or hypodermic needle use in the health district;
- (2) The population the syringe exchange program would serve;
- (3) Concerns of the law enforcement representatives;
- (4) Day-to-day administration of the program, including the hiring of employees or use of volunteers.⁶

Contract to operate the program

The bill permits a board of health to contract with a private, nonprofit organization to operate a syringe exchange program on behalf of the board. Each contract may be in effect for up to one year. Before a contract expires, the board must review the contract to determine whether it should be renewed. The board must consult with the interested parties specified above and reconsider the issues the board and parties considered when establishing the program. After the review, if the board determines that the organization has satisfactorily carried out the purpose of the program and will continue to do so, the board may renew the contract.⁷

Immunity from criminal liability

The bill provides that an employee or volunteer of a syringe exchange program when carrying out the duties of the program is not subject to criminal liability under laws regarding possessing criminal tools, possessing drug abuse instruments, possessing drug paraphernalia, or furnishing hypodermic needles.

With regard to an injection drug user's possession of a syringe or hypodermic needle, the bill provides that a user who is within 1,000 feet of a program facility and possesses a wallet certificate stating that the user is an active participant in the program is not subject to criminal liability under laws regarding possessing criminal tools, possessing drug abuse instruments, or possessing drug paraphernalia.⁸

⁶ R.C. 3707.37(E)(2).

⁷ R.C. 3707.37(F).

⁸ R.C. 3707.37(G).



Reports

The bill requires a board of health that establishes a syringe exchange program to include details about the program in its comprehensive annual report submitted to the Department of Health under current law.⁹

Rulemaking

The bill requires the Department of Alcohol and Drug Addiction Services to adopt rules establishing statewide standards for the wallet certificates issued to participants of syringe exchange programs. The rules must be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119.).¹⁰

Penalties

Current law establishes penalties for violating any of a series of board of health statutes. The bill's provisions are included within that series of statutes. Therefore, whoever violates any of the bill's provisions is guilty of a minor misdemeanor on a first offense; on each subsequent offense, the person is guilty of a misdemeanor of the fourth degree. The penalties extend to violations of any order or regulation of a board of health made in pursuance of the bill's provisions.¹¹

HISTORY

ACTION	DATE
Introduced	03-05-13
Reported, H. Health & Aging	06-12-13

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⁹ R.C. 3707.37(H) and 3707.47 (not in the bill).

¹⁰ R.C. 3707.37(I).

¹¹ R.C. 3707.48 and 3707.99 (not in the bill).

