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Syringe Exchange/Expanded Syringe Access and Opioid OD Prevention Program Advisory

The NYS Division of Criminal Justice Services, Office of Public Safety, in consultation with the NYS Department of Health/AIDS Institute is issuing a Program Advisory to all NYS Law Enforcement Agencies.

There are three separate programs that law enforcement personnel should be aware of.

- Syringe Exchange Program
- Expanded Syringe Access Program
- Opioid Overdose Prevention Program

The public health law authorizing these initiatives created an exemption in the NYS Penal Law regarding syringe possession without a prescription. Police officers are often unaware that these exemptions exist. This advisory is designed to help eliminate legal issues that may arise due to the interaction between law enforcement officers and the participants/consumers of these programs.

The **Syringe Exchange Program** is the oldest of the three programs and permits injection drug users (IDUs) to exchange used syringes for new, sterile ones. Participants enroll in programs, receive identification cards with unique identifiers, and are instructed to return used syringes. Like other syringe access programs, this is not only a formidable HIV/AIDS/Hepatitis C prevention tool, but prevents inappropriate disposal of used syringes. There are 18 syringe exchange programs in New York State: five are upstate and the remaining 13 are located downstate in each of the five boroughs.

The **Expanded Syringe Access Program** allows over the counter sale of syringes without a prescription by pharmacies, registered Article 28 facilities, and individual providers. Entities furnishing syringes without a prescription must register with the state. But, there is no enrollment for consumers and thus, no ID cards are issued. Consumers are not required to retain receipts (if purchased at pharmacies). The bottom line here is that the law does not mandate that consumers possess proof that syringes were obtained through an ESAP provider.

A note regarding Expanded Syringe Access Program (ESAP) providers: Approximately 97% of providers are pharmacies. Almost all of the major chains have signed on, but there are some independently owned pharmacies that have enrolled in the program as well. You can find a list of ESAP providers on the State's website: <http://www.nyhealth.gov>

The **Opioid Overdose Prevention Program** is the newest initiative which allows Trained Responders to possess syringes without a prescription and vials of Naloxone/Narcan to reverse opioid overdoses. Persons will not be issued the opioid overdose kit without having taken the required training. The opioid antagonist (Naloxone/Narcan) shall be dispensed to the Trained Overdose Responder in accordance with all applicable laws, rules and regulations. Please note that agencies delivering the Opioid Overdose Prevention training are required to keep a list of those completing their training.

In practical terms, it is also possible officers may encounter the Trained Responders who have not retained the syringes/Naloxone in the original kit. Kits usually will contain two vials of the antagonist, and according to other rules, should be labeled or in a labeled container. Responders may not have retained proof that they've received the training, though obviously it will be easier to interpret the situation you encounter if they do. In short, officers will be required to make judgment decisions as to the intent of the possession, just like any other time they encounter a case where a prescription has been legally obtained. The rules and law permitting these programs do not legalize criminal behavior. They are intended to permit individuals to minimize transmission of disease and address medical emergencies in a lawful manner.

In further support of these programs there is an on-site training program that will later become available to all police academies and training offices in NYS. This training initiative by NYSDOH is being conducted in concert with the issuance of a podcast by the NYS Association of Chiefs of Police on syringe access which can be heard at <http://www.nychiefs.org/podcast/APB018-Syringe-Law-and-Harm-Reduction.mp3>. The information in the podcast will provide a law enforcement perspective and a context for these three Syringe Access Initiatives.

If you have any questions, please contact Senior Training Technician Scott Neff at Scott.Neff@dcjs.state.ny.us or by telephone at (518) 485-7542.