



NEW YORK
CITY BAR

December 9, 2009

The Honorable Tom Harkin
Chairman
Subcommittee on Labor, Health & Human Services,
Education & Related Agencies Appropriations
Room 156 DSOB
United States Senate
Washington, DC 20510
By Mail & Facsimile transmission (fax: 202-224-1360)

The Honorable David Obey
Chairman
Subcommittee on Labor, Health & Human Services,
Education & Related Agencies Appropriations
Room 2358 RHOB
U. S. House of Representatives
Washington, DC 20515
By Mail

Re: Statement in Support of Ending Federal Funding Ban for Syringe Exchange Programs –
FY 2010 Labor/HHS/Education/Related Agencies Appropriations Act

Dear Chairmen Harkin and Obey:

The Special Committee on AIDS and the Drugs and the Law Committee of the Association of the Bar of the City of New York submit this letter in support of the effort to lift the congressional ban on the use of federal funds for syringe exchange programs (SEPs) from the House Labor, Health and Human Services FY 2010 Appropriations bill. This letter also urges removal from the bill of the amendment restricting funding to SEPs that operate within 1,000 feet of schools, universities, playgrounds, video arcades or youth centers or an event sponsored by these organizations.

Since its founding in 1870, the Association of the Bar of the City of New York has grown to over 23,000 members who work to promote the public good by advocating for legal reform. The membership of the Association's Special Committee on AIDS includes experts with comprehensive knowledge of HIV-related law and policy issues. The Association's Drugs and the Law Committee includes individuals with expertise in addiction treatment, public health, and the laws and policies related to the use of substances and their impact on society.

The efficacy of SEPs is well established. Studies have shown SEPs effective in reducing HIV infection rates among injection drug users, promoting public health and safety by taking

syringes off the streets, and protecting law enforcement personnel from injury.¹ Numerous scientific studies and experiential data from across the globe demonstrate that syringe exchange positively impacts communities, with no evidence of unintended detrimental effects.² Moreover, federally-funded research reports have concluded that syringe exchange programs, as a part of a comprehensive HIV prevention strategy, are an effective public health intervention that reduces HIV transmission without increasing the use of illicit drugs.³ Additionally, these programs can serve as a bridge to treatment for drug addiction.⁴

Despite the ban on federal funding, SEPs exist in 36 of 50 states, as well as the District of Columbia and Puerto Rico, where they serve as a proven method of preventing the transmission of HIV.⁵ Currently, however, implementation of SEPs suffers from a lack of sufficient funding. Removing the ban on federal funding would afford state and local health departments and communities the flexibility to use federal funds for syringe exchange and to prevent transmission of HIV in the United States. Removing the federal funding ban will also enable communities to determine which prevention methods are best suited to serve their needs, enhance the benefit of the services SEPs offer and support community efforts to connect individuals with much-needed assistance.

The assistance afforded by federal funds is significantly undermined, however, by the amendment prohibiting use of funding for needle or syringe distributions within “1,000 feet of a public or private day care center, elementary school, vocational school, secondary school, college, junior college, or university, or any public swimming pool, park, playground, video arcade, or youth center, or an event sponsored by any such entity.” This language severely and unnecessarily limits the locations of SEPs and, in some cases, makes it impossible for communities to have any syringe exchange programs at all.

The effectiveness of SEPs as a means to reduce HIV transmission is directly correlated to the number of individuals with access to programs – there is a strong relationship between the increase in syringe exchange services and the decrease in HIV incidence.⁶ But sterile syringe coverage needs to reach a sufficient proportion of people to prevent and contain the spread of HIV. To that end, the amendment restricting federal funding to SEPs within 1,000 feet of schools, universities, playgrounds, video arcades or youth centers or an event sponsored by these organizations will dramatically undermine the effectiveness of SEPs.

¹ See, e.g., David Satcher, U.S. Dep’t of Health & Human Services, *Evidence-based Findings for the Efficacy of Syringe Exchange Programs: An Analysis of the Scientific Research Completed Since April 1998* (March 17, 2000), available at <http://www.dogwoodcenter.org/references/Satcher00.html>; The Foundation for AIDS Research, *Fact Sheet: Public Safety, Law Enforcement, and Syringe Exchange* (July 2009), available at: http://www.amfar.org/uploadedFiles/On_The_Hill/Resources/fact%20sheet%204pg%20Syringe%20ExchangeD.pdf?n=1733.

² See, e.g., Institute of Medicine, *Preventing HIV Infection Among Injecting Drug Users in High-risk Countries: Report Brief* (Sept. 2006) at 2, available at http://www.iom.edu/~media/Files/Report%20Files/2006/Preventing-HIV-Infection-among-Injecting-Drug-Users-in-High-Risk-Countries-An-Assessment-of-the-Evidence/11731_brief.ashx.

³ See, e.g., Satcher *supra* n. 1.

⁴ See The Foundation for AIDS Research, *Fact Sheet* *supra* n. 1.

⁵ The Foundation for AIDS Research, *Fact Sheet* *supra* n. 1. See also Gay Men’s Health Crisis, *Syringe Exchange: An Effective Tool in the Fight Against HIV and Drug Abuse* (2009) at 2, available at http://server20.lfchosting.com/davetainer/gmhc/policy/nys/2009/SEP_report.pdf.

⁶ Don C. Des Jarlais et al., *HIV Incidence Among Injection Drug Users in New York City, 1990 to 2002: Use of Serologic Test Algorithm to Assess Expansion of HIV Prevention Services*, 95(8) AM. J. PUB. HEALTH 1439, 1440-1442 (2005).

If it stands, the 1,000-foot restriction would make utilization of federal resources for SEPs nearly impossible for existing programs, and severely hamper efforts in communities to implement new programs, particularly in urban areas, where public health officials say they are needed most.⁷ Indeed, many currently operating exchanges would be ineligible for federal funds under such a provision. For cities, the geographic restriction can eliminate entire neighborhoods from being considered for a federally-funded SEP, even when the service may be critically needed.⁸ And, in rural areas, the 1,000-foot restriction will render existing SEPs – frequently the sole functioning programs in some areas – ineligible for funding.⁹ Adoption of this amendment would severely undercut the effectiveness of removing the ban on federal funding. Indeed, the unpredictability and fluidity manifest in the notion of proximity to “an event sponsored by these organizations” could have the practical effect of rendering any program ineligible, whatever the community.

The Special Committee on AIDS and the Drugs and the Law Committee of the Association of the Bar of the City of New York support full revocation of the ban on the use of federal funds for SEPs and urges passage of legislation that will permit SEPs to function without geographical restriction.

Respectfully submitted,

The Committee on AIDS and
the Committee on Drugs and the Law
of the Association of the Bar of the City of New York

⁷ See, e.g., Katie Zezima, *Bill Would Limit Needle Exchanges*, New York Times, Nov. 9, 2009, available at <http://www.nytimes.com/2009/11/09/health/policy/09needle.html?scp=1&sq=%22needle%20exchange%22&st=cse>.

⁸ See, e.g., Zezima, *supra* n. 7.

⁹ See, e.g., Zezima, *supra* n. 7.