[Authorization for a Local Disease Prevention Demonstration Project.]

Ordinance amending the Health Code to add Section 31 authorizing the Department of Public Health to create and operate a Disease Prevention Demonstration Project to register pharmacies to sell or furnish hypodermic needles without a prescription as allowed under State law, such registration to consist of the department maintaining a list of participating pharmacies, providing such pharmacies with written information for customers on how to access drug treatment, HIV and Hepatitis C testing and treatment, and safe disposal of sharps waste.

Note: Additions are single-underline italics Times New Roman;
deletions are strikethrough italics Times New Roman.
Board amendment additions are double underlined.
Board amendment deletions are strikethrough normal.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The San Francisco Health Code hereby amended by adding Article 31, to read as follows:

Sec 2100. DISEASE PREVENTION DEMONSTRATION PROJECT

(a) FINDINGS. The Board of Supervisors finds and declares the following:

1. The sharing of syringes is the leading source of AIDS in women and children and is also the leading cause of the transmission of the hepatitis C.

2. Medical evidence has established that providing clean syringes to injection drug users prevents the transmission of HIV and other blood borne infections while not increasing drug abuse.

3. Based on this medical data, the U.S. Department of Health and Human Services advises all health care workers to counsel patients who continue to use injection drugs to use a new sterile syringe each time they prepare and inject drugs. In addition, the American Medical Association

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approved a resolution on June 14, 2000 "to strongly support the ability of physicians to prescribe syringes and needles to patients with injection drug addiction." (AMA House of Delegates Resolution 416, Physician Prescription of Needles to Addicted Patients.)

(4) Sections 4145 and 4147 of the California Businesses and Professions Code and Section 11364 of the Health and Safety Code have been amended, and Sections 121285 et seq. of the Health and Safety Code has been added, to allow pharmacists participating in a local Disease Prevention Demonstration Project to sell or furnish 10 or fewer hypodermic needles or syringes at any one time to a person 18 years of age or older without a prescription during the period of January 1, 2005 and December 31, 2010.

(5) Under Section 11364 of the Health and Safety Code, as amended, no person within the physical boundaries of the City and County of San Francisco who has in their possession 10 or fewer needles or syringes for personal use obtained from an authorized source in compliance with the Section 11364(c) shall be subject to Section 11364(a) of the Health and Safety Code.

(5)(6) The Disease Prevention Demonstration Project will terminate on December 31, 2010.

(6) (7) The State Department of Health Services, in conjunction with an advisory panel, will evaluate the effects of allowing the sale of hypodermic needles or syringes without prescription and will submit a report to the Governor and Legislature by January 15, 2010.

(b) LOCAL DISEASE PREVENTION DEMONSTRATION PROJECT. The health department shall initiate a local Disease Prevention Project satisfying the requirements for such a program as set forth in Section 121285 et seq. of the Health and Safety Code. The health department shall be responsible for the following:

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1. Create and maintain a registry for pharmacies located within the physical boundaries of the City and County of San Francisco desiring to participate in the Local Disease Prevention Demonstration Project, said registry to include:

(A) A contact name and related information for each pharmacy.

(B) Certification in the form of an attestation by an individual authorized to sign on behalf of the pharmacy that at the time of furnishing or sale of hypodermic needles or syringes, the pharmacy will provide customers with written or oral information on all the following:

   i. How to access drug treatment.

   ii. How to access testing and treatment for HIV and hepatitis C.

   iii. How to safely dispose of sharps waste.

2. Maintain a list of all pharmacies that have registered with the department's Disease Prevention Demonstration Project. Each such registered pharmacy is encouraged to participate shall also register with the San Francisco Safe Needle Disposal Program to assure safe disposal of used hypodermic needles and syringes. Registered Pharmacies registered with the Disease Prevention Demonstration Project shall notify the department of any changes to the registration information as soon as possible under the circumstances, including notification to withdraw from the program.

3. Registration information may be included in a resource directory for use by consumers and providers.

4. The health department shall make available to participating pharmacies written information that may be provided or reproduced to be provided in writing or orally by the pharmacy at the time of furnishing or the sale of nonprescription hypodermic needles or syringes including information on how to access drug treatment; how to access testing and treatment for HIV and hepatitis C and how to dispose of sharps waste.
5. The health department shall pass regulations as it deems necessary to implement the Disease Prevention Demonstration Project.

6. The department's obligations under these sections are subject to the budgetary and fiscal provisions of the Charter.

Section 2101. LIMITATION OF LIABILITY. By adopting this Article, the City and County of San Francisco is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such a breach proximately caused injury.

Section 2102. SEVERABILITY. If any section, subsection, clause, phrase or portion of this Chapter is for any reason held invalid or unconstitutional by any court or federal or state agency of competent jurisdiction, such portion shall be deemed a separate, distinct and such holding shall not affect the validity of the remaining portions thereof.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By:
ALEETA M. VAN RUNKLE
Deputy City Attorney

Supervisors Duffy and Ammiano
BOARD OF SUPERVISORS
Ordinance amending the Health Code to add Section 31 authorizing the Department of Public Health to create and operate a Disease Prevention Demonstration Project to register pharmacies to sell or furnish hypodermic needles without a prescription as allowed under State law, such registration to consist of the department maintaining a list of participating pharmacies, providing such pharmacies with written information for customers on how to access drug treatment, HIV and Hepatitis C testing and treatment, and safe disposal of sharps waste.

February 22, 2005 Board of Supervisors — PASSED ON FIRST READING
Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Ma, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

March 1, 2005 Board of Supervisors — FINALLY PASSED
Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Ma, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval
I hereby certify that the foregoing Ordinance was FINALLY PASSED on March 1, 2005 by the Board of Supervisors of the City and County of San Francisco.

Gloria L. Young
Clerk of the Board

03.12.05
Date Approved

Mayor Gavin Newsom