

Bill No. 3671-08

No. 04-08-OR

AN ORDINANCE

An Ordinance of the Council of the County of Allegheny adopting and approving of a proposed Allegheny County Health Department Rule and Regulation (Article II – “Needle Exchange Program for Communicable Disease Prevention and Providing Drug Treatment Opportunities”).

Whereas, the Allegheny County Board of Health, pursuant to the Local Health Administration Law, 16 P.S. §12001, et seq., approved on May 2, 2007 the attached Allegheny County Health Department Rule and Regulation Article II, “Needle Exchange Program for Communicable Disease Prevention and Providing Drug Treatment Opportunities”; and

Whereas, pursuant to the Local Health Administration Law, the County has to approve or reject the Allegheny County Health Department regulation within thirty (30) days of submittal from the Board of Health.

The Council of the County of Allegheny hereby resolves as follows:

SECTION 1. Incorporation of Preamble.

The provisions set forth in the preamble to this Ordinance are incorporated by reference in their entirety herein.

SECTION 2. Ratification of Regulations


The County of Allegheny hereby approves and adopts the proposed Regulation of the Allegheny County Board of Health, Article II, “Needle Exchange Program for Communicable Disease Prevention and Providing Drug Treatment Opportunities”, as set forth in Attachment “A”, which is incorporated by reference herein.

SECTION 3. Severability. If any provision of this Resolution shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Resolution which shall be in full force and effect.

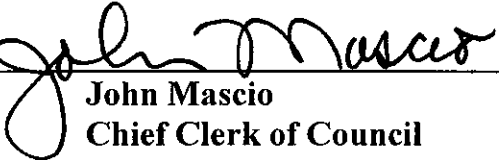
SECTION 4. Repealer. Any Resolution or Ordinance or part thereof conflicting with the provisions of this Resolution is hereby repealed so far as the same affects this Resolution.

Enacted in Council, this 5th day of February, 2008.

Council Agenda No. 3671-08.



Rich Fitzgerald
President of Council

Attest: 

John Mascio
Chief Clerk of Council

Chief Executive Office February 15, 2008

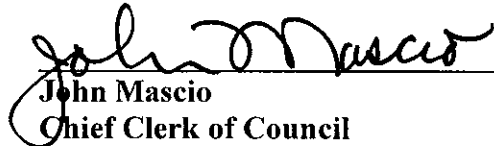
Approved: _____

Dan Onorato
Chief Executive

Attest: _____

Donna Beltz
Executive's Secretary

I do hereby certify that the foregoing Ordinance, duly engrossed and certified, was delivered by me to the Chief Executive for his approval or disapproval and that the Chief Executive failed to approve or disapprove the same, whereupon, it became law without his approval under the provisions of Section 311.07(E) of the Administrative Code of Allegheny County.



John Mascio
Chief Clerk of Council

ALLEGHENY COUNTY HEALTH DEPARTMENT

Rules and Regulations

ARTICLE II NEEDLE EXCHANGE PROGRAMS FOR COMMUNICABLE DISEASE PREVENTION AND PROVIDING DRUG TREATMENT OPPORTUNITIES

201. PURPOSES

The Allegheny County Health Department finds the sharing of intravenous injection apparatus among injecting drug users a threat to public health. Sharing injection apparatus is a significant factor in the transmission of infectious diseases, including HIV and Hepatitis B and C. Providing clean injection apparatus and biohazard containers through a sanctioned needle exchange program, educating injecting drug users as to the dangers of sharing injection apparatus and continued drug abuse, and providing condoms to prevent sexual transmission of infectious diseases have been shown to reduce the incidence of infectious disease transmission among injecting drug users. Repeated offerings of drug rehabilitation services have also been demonstrated to increase the likelihood that injecting drug users will enter treatment, and through one or more attempts, become drug-free.

202. STATEMENT OF POLICY

The regulation of needle exchange programs is necessary to assure that the distribution of clean injection apparatus and biohazard containers is carried out in a manner consistent with the goal of preventing infectious disease transmission among injecting drug users, and to encourage the provision of the greatest number of treatment and prevention strategies possible, with the ultimate goal of reducing the incidence of HIV and Hepatitis B and C among injecting drug users, their sexual partners, and their offspring. Such prevention will promote the health, safety and welfare of the community.

203. EFFECTIVE DATE

The provisions of this Article will become effective ten days after the enactment date of an ordinance of Allegheny County approving its provisions.

DEFINITIONS

The following terms when used in this Article have the meanings indicated in this section, except where the context indicates a clearly different meaning.

“Biohazard Containers” shall mean approved, limited access, puncture-proof receptacles to be used for the safe storage of used needles or sharps.

“Board of Health” shall mean the Allegheny County Board of Health.

“Department” shall mean the Allegheny County Health Department.

“Director” shall mean the Director of the Allegheny County Health Department or his or her authorized representative.

“Infectious Disease Screening” or “IDS” shall mean testing blood or other tissue for HIV and Hepatitis B and C, by a Clinical Laboratory Improvement Amendments (CLIA) approved method.

“Injection Apparatus” shall mean syringes, needles, and alcohol wipes.

“Program Participant” shall mean any individual receiving services, materials, or referrals from a needle exchange program.

“Program Location” shall mean the specific address at which a Needle Exchange Program provides any materials or services to any Program Participant(s), whether inside a building or at a temporary facility, including but not limited to tents, outdoor tables, or mobile facilities.

“Key Individuals” shall mean individuals with actual authority over the day-to-day operations of Needle Exchange Programs.

“Needle Exchange Program” shall mean a public or private enterprise with the goal of reducing the incidence of infectious disease transmission among, Program Participants, their sexual partners, and their offspring, approved by the Board of Health, through the provision of education on safe practices, counseling opportunities, clean Injection Apparatus, Biohazard Containers, and condoms or other barrier methods of preventing sexually transmitted diseases.

“Person” shall mean any natural person, corporation, partnership or association.

205. NEEDLE EXCHANGE PROGRAM REQUIREMENTS

- A. The Department shall, subject to the approval of the Board of Health, devise operating procedures of Needle Exchange Programs in Allegheny County, Pennsylvania. The Board shall not approve or alter any operating procedure without providing written notice of the new procedure(s) to the Allegheny County Council and Chief Executive at least thirty (30) days prior to the Board's vote.
- B. The Board of Health shall review each proposal for a Needle Exchange Program, and upon approval, shall forward written copies of all materials pertaining to approved proposals to the County Chief Executive and Council, and to the Mayor and Council or, if applicable, Commissioners of each municipality where a Needle Exchange Program is proposed at least ninety (90) days before the Program proposes to begin operations.
- C. Persons wishing to create and operate Needle Exchange Programs shall submit to the Board of Health written statements of their intent to promulgate such a program, with the names, addresses, and social security numbers of Key Individuals. Each statement shall include a rationale for the necessity for the program, the intended program location(s), days and hours of operations, and the proposed method for tracking program users. Any changes in this identifying information or the identity of Key Individuals shall be sent to the Board of Health within thirty days. All Needle Exchange Programs shall maintain continuously updated records of the full names, addresses and telephone numbers of all individuals providing services to or having contact with Program Participants at any Program Location.
- D. No Needle Exchange Program shall operate in any location until the address of the Program Location is specifically approved by the Board of Health and the proposed site's municipality through legislative action.
 - i. Program Locations in operation with the approval of the Allegheny County Health Department as of January 1, 2007 shall not require additional approval by the Department or the municipality in which they are located, although all such Program Locations shall be disclosed to the Mayor, Council, and/or Commissioners of all municipalities in which they are located in writing within ten (10) days of the effective date of this Regulation.
 - ii. Under no circumstances shall the Department approve any future Program Location proposed to be within 1500 feet of any elementary, primary school, secondary school, licensed daycare facility, or drug treatment facility.

- iii. The Department shall not approve any temporary facility, including but not limited to tents, outdoor tables, or mobile units, as a Program Location unless such location is first identified by address and in writing by the Needle Exchange Program, and the municipality in which the temporary facility is to be located is notified in writing of the address of the temporary Program Location in accordance with the requirements of Subsection 205.C.
- E. Needle Exchange Programs shall enroll each Program Participant with a unique identifier, and shall not provide services before attempting to elicit the Program Participant's age, gender, self-reported race, zip code, and disease status (HIV, Hepatitis B or C.)
- F. Each Needle Exchange encounter shall be documented with the unique identifier and the date and time of the encounter. The person documenting the encounter and all individuals providing materials or services to any Program Participant shall provide his or her initials. Documentation shall be retained by the Needle Exchange Program for at least three (3) years.
 - i. IDUs not known to be infected with HIV, or Hepatitis B or C infections at first screening shall be offered testing at the first visit that is at least six months from the date of first screening.
 - ii. IDUs presenting with one or more symptoms of HIV or Hepatitis B or C shall be informed that they should follow up immediately with their primary care provider or the Department.
 - iii. IDUs shall be counseled on safe sex practices.
- G. Needle Exchange Programs shall be primarily for the use of Allegheny County Residents, but non-residents may participate if there are available resources.
- H. The number of Injection Apparatus and Biohazard Containers dispensed shall be no more than are reasonably necessary for one month's worth of injections at an IDU's first interaction with the Needle Exchange Program.
- I. Each IDU shall be offered a referral to drug treatment and counseling services at each Needle Exchange Encounter. Such referral shall be documented with the initials of the person who made the referral and the IDU's response.
- J. Whenever possible, the Department shall provide infectious disease testing materials as requested by Needle Exchange Programs.

- K. Community laboratory facilities processing Needle Exchange Program specimens shall report positive infectious disease tests not conducted by the Department shall be reported to the Department within seventy-two (72) hours.
- L. Department funds shall not be used to support any activity of any Needle Exchange Program without prior approval as required by law.

206. REPORTING

Needle Exchange Programs shall submit to the Director Semi-Annual Reports of the disease status of all enrolled IDUs on or before December 31 and July 1 of each calendar year, in a form to be determined by the Board of Health, but which shall include at least: the number of encounters; the number of individual participants; the total number of injection apparatuses; the number of treatment referrals made, the number of infectious disease tests performed.

207. VIOLATIONS

Any Needle Exchange Program approved by the Board of Health that violates any of the sections contained herein, shall lose its authorization to continue to operate as a Needle Exchange Program, subject to the discretion of the Department or upon the repeal of the legislative Program Location approval required under the terms of Subsection 205.D. by the host municipality.

208. APPEALS


Any Person aggrieved by any action of the Department may file an appeal in accordance with the Allegheny County Health Department Rules and Regulations, Article XI, entitled "Hearings and Appeals."

209. SEVERABILITY

Should any section, paragraph, sentence, clause or phrase of this Article be declared unconstitutional, null or otherwise invalid for any reason, the remainder of this Article shall not be affected thereby.

MEMORANDUM
OFFICE OF THE COUNTY MANAGER

TO: John Mascio
Chief Clerk

FROM: James M. Flynn, Jr. 
County Manager

DATE: January 10, 2008

RE: Proposed Ordinance

ALLEGHENY COUNTY COUNCIL

'08 JAN 10 AM 11:19

Attached is an Ordinance adopting and approving of a proposed Allegheny County Health Department Rule and Regulation (Article II – “Needle Exchange Program for Communicable Disease Prevention and Providing Drug Treatment Opportunities”).

The Allegheny County Law Department has reviewed this legislation prior to submitting it to Council.

Please place this on the next agenda for County Council approval.

Thank you.

Mascio, John R.

From: Mascio, John R.
Sent: Wednesday, February 20, 2008 11:43 AM
To: Bob Macey; 'Brenda Frazier'; Burn, Jr. James; 'Charles Martoni'; Chuck McCullough; Cleary, Joan; Defazio, John P; Drozd, Matt; Ellenbogen, James; Finnerty, Michael J.; Futules Sr., Nicholas; 'Jan Rea'; Jim Burn; 'Joan Cleary'; John Defazio; Macey, Robert J.; Martoni, Charles; Mike Finnerty; 'Rich Fitzgerald'; Vince Gastgeb; 'Vince Gastgeb'; 'William Robinson'
Cc: Barker, Jared; Catanese, Joe; Liptak, Jennifer M
Subject: Bill No. 3671-08 Regarding Needle Exchange Program Returned Unsigned By Chief Executive

Dear Members of Council,

This is to inform you that Bill No. 3671-08, entitled, "*An Ordinance of the Council of the County of Allegheny adopting and approving of a proposed Allegheny County Health Department Rule and Regulation (Article II - "Needle Exchange Program for Communicable Disease Prevention and Providing Drug Treatment Opportunities")*",

which was passed in Council on February 5, 2008, was delivered by me to the Chief Executive for his approval or disapproval, and having failed to approve or disapprove of the legislation, it became law under the provisions of Section 311.07(E) of the Administrative Code.

Mr. Onorato did not provide a letter explaining his reasons for not signing the bill.

I will place a hard copy of this e-mail in your mail slots.

John Mascio