

1 [Authorization for a Local Disease Prevention Demonstration Project.]

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

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

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

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

16 Sec.2100. DISEASE PREVENTION DEMONSTRATION PROJECT

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

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

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

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

1 approved a resolution on June 14, 2000 "to strongly support the ability of physicians to prescribe
2 syringes and needles to patients with injection drug addiction." (AMA House of Delegates Resolution
3 416, Physician Prescription of Needles to Addicted Patients.)

4 (4), Sections 4145 and 4147 of the California Businesses and Professions Code and
5 Section 11364 of the Health and Safety Code have been amended, and Sections 121285 et. seq. of the
6 Health and Safety Code has been added, to allow pharmacists participating in a local Disease
7 Prevention Demonstration Project to sell or furnish 10 or fewer hypodermic needles or syringes at any
8 one time to a person 18 years of age or older without a prescription during the period of January 1,
9 2005 and December 31, 2010 .

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

15 (5)(6) The Disease Prevention Demonstration Project will terminate on December 31,
16 2010.

17 (6) (7) The State Department of Health Services, in conjunction with an advisory panel,
18 will evaluate the effects of allowing the sale of hypodermic needles or syringes without prescription and
19 will submit a report to the Governor and Legislation by January 15, 2010.

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

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

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

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

8 i. How to access drug treatment.

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

10 iii. How to safely dispose of sharps waste.

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

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

20 4. The health department shall make available to participating pharmacies written information
21 that may be provided or reproduced to be provided in writing or orally by the pharmacy at the time of
22 furnishing or the sale of nonprescription hypodermic needles or syringes including information on how
23 to access drug treatment; how to access testing and treatment for HIV and hepatitis C and how to
24 dispose of sharps waste.

1 5. The health department shall pass regulations as it deems necessary to implement the Disease
2 Prevention Demonstration Project.

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

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

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

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

19 By: _____
20 ALEETA M. VAN RUNKLE
21 Deputy City Attorney