

Chapter 8.80

STERILE NEEDLE AND SYRINGE EXCHANGE

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8.80.010 Creation and Purpose.

(1) Pursuant to RCW 69.50.612, as such may be amended from time to time, Lewis County is authorized to enact law or ordinances relating to the regulation of harm reduction services, including needle and hypodermic syringe exchange programs.

(2) The purpose of this Chapter is to ensure sterile needle and syringe exchange programs operating in Lewis County operate in the safest manner in all aspects and balance the priority of users' safety and users' drug treatment, sobriety, and abstinence. Sterile needle and syringe exchange programs offer the exchange of clean, unused needles and hypodermic syringes for used needles and hypodermic syringes as a means to reduce the transmission of HIV, AIDS, viral hepatitis, or other blood-borne diseases; decrease the number of improperly disposed needles and syringes which pose a serious risk to the public health, safety, and welfare, given the potential for personal bodily injury, property damage, and contaminated waterways in the event of high-water levels; and to provide a first point of contact for formal drug treatment, access to health and counselling service referrals, the provision of up-to-date information about safe injecting practices, and providing a means for data collection from participants about their behavior and/or drug use patterns.

8.80.020 Definitions.

For purposes of this chapter, the following definitions apply:

- (1) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a licensed or certified treatment program.
- (2) "Child" means a person under the age of eighteen years.
- (3) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or commission rules, but does not include hemp or industrial hemp as defined in RCW 15.140.020.
- (4) "Drug addiction" means a disease characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.
- (5) "Drug offense" means:
 - (a) Any felony, gross misdemeanor, or misdemeanor violation of chapters 69.50 or 69.52 RCW;
 - (b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or
 - (c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.
- (6) "Drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance.
- (7) "Legend drugs" means any drugs which are required by state law or regulation of the pharmacy quality assurance commission to be dispensed on prescription only or are restricted to use by practitioners only.
- (8) "Mobile clinic" means any sterile needle and syringe exchange program conducted through a variety of delivery methods including, but not limited to, mobile vehicles or backpacked pedestrians resulting in the delivery of program services in any way except in a fixed facility.
- (9) "Needle disposal container" means any rigid puncture-resistant container used for the collection of discarded needles, syringes, or other sharps.
- (10) "Opioid antagonist" means any drug that binds to opioid receptors and blocks or inhibits the effects of opioids acting on those receptors. It does not include any drug that is administered intravenously.
- (11) "Package" means a container that has a single unit or group of units.

(12) "Participant" means an individual who uses the sterile needle and syringe exchange program services being offered by a program operator.

(13) "Practitioner" means:

(a) A physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, an acupuncturist or acupuncture and Eastern medicine practitioner to the extent authorized under chapter 18.06 RCW and the rules adopted under RCW 18.06.010(1)(j), a veterinarian under chapter 18.92 RCW, a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW, an optometrist under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, a physician assistant under chapter 18.71A RCW, a naturopath licensed under chapter 18.36A RCW, a licensed athletic trainer to the extent authorized under chapter 18.250 RCW, a pharmacist under chapter 18.64 RCW, or, when acting under the required supervision of a dentist licensed under chapter 18.32 RCW, a dental hygienist licensed under chapter 18.29 RCW;

(b) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a legend drug in the course of professional practice or research in this state; and

(c) A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery in any state, or province of Canada, which shares a common border with the state of Washington.

(14) "Prescription" means an order for controlled substances issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe controlled substances within the scope of his or her professional practice for a legitimate medical purpose.

(15) "Program operator" means an individual, organization, corporation, trust, partnership, association, joint venture, or other legal or commercial entity that operates a sterile needle and syringe exchange program.

(16) "Program staff" means any staff, volunteers, or any other individuals working for or with the sterile needle and syringe exchange program.

(17) "Referral" means the act of the program operator giving a participant the name or names of specific providers of services that may meet the needs of the participant described in this Chapter, or the program operator gives a provider the name of a participant for the purposes of enabling the provider to contact the participant regarding services provided by that provider.

(18) "Safe or supervised injection site" means a designated area or facility designed to provide a hygienic environment in which individuals are able to consume illicit recreational drugs intravenously.

(19) "Sterile needle and syringe exchange program" means any and all needle and syringe exchange programs or projects whereby hypodermic needles and/or syringes are exchanged such that persons participating in and/or operating such programs are exempted from criminal

prosecution for acts related to the possession of needles and/or syringes pursuant to RCW 69.50.412.

8.80.030 Registration.

All program operators shall register with the Lewis County Public Health and Social Services department. The registration shall include, but not be limited to:

- (1) Name and contact information, including but not limited to address and telephone number, of program operator;
- (2) All licensing, certifications, or other qualifications of the program operator;
- (3) Locations of where the needle and hypodermic syringe exchange will take place;
- (4) Times of when the needle and hypodermic syringe exchange will operate; and
- (5) The program operator's procedure for the disposal of needles and/or hypodermic syringes.
- (6) All staff, volunteers, and any other individuals working for or with the sterile needle and syringe exchange program.

8.80.040 Program staff.

- (1) All staff, volunteers, and any other individuals working for or with the sterile needle and syringe exchange program:
 - (a) Shall be verified by the sterile needle and syringe exchange program operator not to have been a participant in the sterile needle and syringe exchange program in the prior twenty-four months;
 - (b) Shall be verified by the Lewis County Public Health and Social Services not to have been convicted of any drug related offense in the prior twenty-four months.
- (2) Upon receiving verifications as required by subsection (1) of this section, the Lewis County Public Health and Social Services shall issue an identification card to the program staff.
- (3) All program staff shall carry and have the identification card issued by the Lewis County Public Health and Social Services visible at all times while conducting program business.

8.80.050 Quantity of sterile needle and syringe exchange.

The program operator shall operate a one-to-one exchange, whereby a participant shall receive one sterile needle and syringe unit in exchange for each used one. Provided, the first time a participant appears before a program operator within a two (2) year period, notwithstanding the number of used needles the participant offers to exchange, said participant shall receive up to a maximum of ten (10) sterile needles. If the participant seeks to exchange a package of more than ten needles or syringes, the program operator may use a good faith estimate of the number of needles or syringes to exchange. No other drug paraphernalia shall be issued or distributed in any manner.

8.80.060 Drug treatment.

Whenever needles and/or syringes are exchanged, the program operator shall provide onsite counseling or referrals for an approved substance use disorder treatment program and for drug abuse prevention, education, and treatment.

8.80.070 Health information.

The program operator shall offer or make a referral to an organization that provides disease testing and educational materials regarding the transmission of HIV, viral hepatitis, and other blood-borne diseases whenever needles or syringes are exchanged.

8.80.080 Opioid antagonist kits.

Whenever needles or syringes are exchanged, the program operator shall make available kits containing an emergency opioid antagonist or provide referrals to a program that can provide such kit.

8.80.090 Needle disposal containers.

Whenever needles or syringes are exchanged, the program operator shall make available a needle disposal container to the participant.

8.80.100 Age restriction.

- (1) The program operator shall not knowingly provide needles or syringes to any child or person under the age of eighteen to remain in compliance with RCW 69.50.412.
- (2) When there may be a question of a person's right to possess hypodermic needles and/or syringes pursuant to RCW 69.50.412 by reason of age, the program operator must require the participant to present any one of the following officially issued forms of identification that shows the purchaser's age and bears his or her signature and photograph:
 - (a) Liquor control authority card of identification of a state, province of Canada, or other sovereign nation;
 - (b) Driver's license, instruction permit, or identification card of a state, province of Canada, or other sovereign nation;
 - (c) "Identocard" issued by the Washington state department of licensing under chapter 46.20 RCW;
 - (d) United States military identification;
 - (e) Passport;
 - (f) Enrollment card, issued by the governing authority of a federally recognized Indian tribe, that incorporates security features comparable to those implemented by the department of licensing for Washington drivers' licenses; or
 - (g) Merchant marine identification card issued by the United States Coast Guard

(3) It is a defense to a prosecution under this section that the program operator reasonably relied on any of the officially issued identification as defined in subsection (2) of this section.

8.80.110 Location of sterile needle and syringe exchange.

(1) The program operator may conduct its needle and hypodermic syringe exchange at one or more fixed locations. No mobile exchange is authorized in Lewis County.

(a) Any program operator conducting a mobile exchange in Lewis County using a mobile vehicle at the time this Chapter is enacted may continue until December 31, 2025, to use the mobile vehicle for the operation of its needle and hypodermic syringe exchange provided the mobile vehicle provides such an exchange at a single location which has an existing mental health or drug treatment program operating on-site, is under the legal control of the program operator, is in compliance with LCC 8.80.110, subsections (2)-(4), and LCC 8.80.120, subsections (3)-(8), is approved by the Lewis County Public Health and Social Services Department, and is approved by the Lewis County Board of County Commissioners via resolution.

(2) Locations of where the needle and hypodermic syringe exchange take place must be in areas which are not exclusively zoned for residential purposes.

(3) Locations of where the needle and hypodermic syringe exchange take place must not be within seven hundred fifty (750) feet of a school, library, or public park.

(4) No safe or supervised injection site is authorized or permitted in Lewis County.

8.80.120 Site security.

Required criteria for a fixed location are to include but not be limited to:

(1) A primary entrance and emergency exit with doors and locking mechanisms;

(2) Be in a well-lighted area for both primary entrance and emergency exits for safety issues;

(3) Needle disposal containers for securing previously used needles and other drug paraphernalia;

(4) Secure containers for new needles;

(5) The location and its legal parking areas must be assessable to vehicle and foot traffic;

(6) Have ADA accessibility for consumers;

(7) The facility shall not to be used for a safe or supervised injection site; and

(8) The operator shall provide for maximum security of the site where needles are exchanged and of any equipment used under the needle exchange program and shall establish written security procedures. These security procedures shall be included in the operator's training and on-boarding process for all contractors, employees, and volunteers assisting in the needle exchange program. Security procedures shall include, at a minimum:

(a) An accounting of the number of needles and syringes dispersed;

- (b) An accounting of the number of needles and syringes in storage; and
- (c) An accounting of the safe disposal of returned needles.

8.80.130 Data and reporting requirements.

Criteria for a fixed location are to include but not be limited to:

(1) The needle exchange program shall prepare and submit monthly reports to the Lewis County director of public health and social services or the director's designee. The needle exchange program monthly report shall be filed no later than 60 days after the last day of the month. The needle exchange program shall collect and monitor, at a minimum, the following data elements to be included in the monthly report:

- (a) The number of participants served;
- (b) The number of used needles or syringes received and disposed;
- (c) The number of clean, unused needles or syringes distributed to participants;
- (d) The number of emergency opioid antagonist kits distributed;
- (e) The number of needle disposal container distributed;
- (f) The number of known participants that are referred to or enroll in a substance use disorder treatment program, drug abuse prevention, education, or those tested for HIV, AIDS, viral hepatitis, or other blood-borne diseases and referred for medical treatment;
- (g) Any other data collection methods and outcomes measurements that may be required by the Washington State Department of Health; and
- (h) The demographic profiles of the participants served.

(2) The personal identifying information of a needle exchange program participant shall not be collected for any purpose.

8.80.140 Funding.

Lewis County funds may not be used to operate an exchange program. Exchange program operator shall not accept any form of remuneration from participants for delivering sterile needle and syringe exchange program services but shall be funded through funds acquired by other sources.

8.80.150 Exclusions.

(1) Nothing in this Chapter shall be construed to prohibit or regulate a practitioner from legally prescribing or administering medications or legend drugs.

(2) Nothing in this Chapter shall be construed to prohibit or regulate the sale of hypodermic syringe, hypodermic needle, or any device adapted for the use of drugs by injection pursuant to Chapter 70.115 RCW.

8.80.160 Penalties.

- (1) Any commissioned law enforcement officer, Lewis County director of public health and social services or the director's designee, or the prosecuting attorney may inspect the site of the sterile needle and syringe exchange program. Any commissioned law enforcement officer may cite a program operator upon probable cause that a violation of this Chapter has occurred, whether or not the violation took place in the citing authority's presence.
- (2) Any program operator who is found, by a preponderance of the evidence, to have violated any portion of this Chapter shall be subject to the civil penalties in LCC 1.20.040.
- (3) A third violation, and all subsequent violations, of this Chapter shall be a misdemeanor, punishable as prescribed in LCC 1.20.020. A committed finding on a prior infraction for violating this Chapter shall be sufficient to show the prior violation and notice to the accused but shall not be necessary for proof of the misdemeanor. It shall suffice if it is proven beyond a reasonable doubt within the misdemeanor prosecution that (a) the prior violations occurred; (b) the accused was lawfully served with written notice of the prior violations before the third or subsequent violation; and (c) the third or subsequent violation occurred.

8.80.170 Severability.

Should any section, paragraph, sentence, clause, or phrase of this chapter, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this chapter be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this chapter or its application to other persons or circumstances.

8.70.180 Effective date.

The effective date of the ordinance codified in this chapter shall be the ____ day of _____, 2024.