

Research Protocol for Syringe Distribution Laws

Prepared by the Center for Public Health Law Research Staff

JULY 2017

Syringe Distribution Laws

- I. **Date of Protocol:** July 2012; August 2013; January 2015; April 2015; March 2016; October 2016; July 2017

- II. **Scope:** To Compile state laws and regulations that meet the following inclusion criteria: (1) explicitly prohibit distribution of drug paraphernalia; (2) regulate the retail sale of syringes, including laws and regulations that require a prescription for syringe purchase, and (3) authorize and/or regulate syringe exchange programs; code their respective features. This is a longitudinal dataset, and captures laws in effect from July 1, 2012 through July 1, 2017. The jurisdictions selected for measurement are the 50 states and the District of Columbia.

- III. **Primary Data Collection**
 - a. **Project Timeline:** Initial legal research was conducted between May 1, 2012 and July 31, 2012. The dataset has since been updated to include legal research up and until July 2017, see subsection XI. Update (July 2017).

 - b. **Dates Covered in the Dataset:** This is a longitudinal dataset covering relevant Syringe Distribution Laws between July 1, 2012 and July 1, 2017.

 - c. **Data Collection Methods:** Research was conducted by two researchers at the Policy Surveillance Program, each covering half the states including the District of Columbia. Their work was supervised by a project manager at the Policy Surveillance Program. Professor Scott Burris from Temple University was consulted as a content expert during the research and coding phases. Key word searches were supplemented by examination of the table of contents of the controlled substances section of the state code.

Policy memos and a state summary memo were created by the content expert and a legal researcher. Key variables for syringe distribution law were discussed and outlined. The key variables were divided into broad categories of syringe distribution law including: syringe distribution, drug paraphernalia law, methods of decriminalizing syringe distribution, authorization of syringe exchange programs, and barriers to syringe access. The team met to collaboratively discuss and refine the variables.

 - d. **Search Terms and Databases Used:** Key word searches were supplemented by examination of the table of contents of the controlled substances section of the state code. Searches were conducted in the state statute and regulation libraries of Westlaw and Lexis Nexis using the following search terms: (“syringe” “needle” “drug paraphernalia” “hypodermic device” & (“deliver!” “distribu!”) NOT “bovine.”

To check for state regulations on the sale of needles and syringes by pharmacies and pharmacists, which might not be in other legal databases, researchers searched in the NABP legal database available at: www.nabplaw.net.

The researchers used the advanced search tab in the NABP legal database. For each state the terms “Needle syringe retail sale” were typed in the dialog box labeled “and containing one or more of these words.” The box next to “Find alternate word forms” was checked and the “search” was conducted.

- e. **Inclusion and Exclusion Criteria:** Statutes and regulations were included if they defined drug paraphernalia or similar terms (e.g., drug related objects), set out prohibitions regarding the delivery or distribution of syringes, authorized or regulated syringe exchange or regulated the retail sale of syringes (e.g., restrictions on number of sale, minor purchases). Statutes and regulations were excluded if they addressed only wholesale distribution, or bovine or other industrial or agricultural uses.

The final list of variables can be found in the dataset’s codebook, which is accessible from the dataset’s homepage at LawAtlas.org.

IV. Coding

- a. **Development of Coding Scheme:** A coding scheme was developed based on review of the identified legal data. Legal texts (relevant excerpts of cases and statutes) were entered into Workbench by state.

The two researchers coded the laws in the states they researched. Coding questions were discussed with the supervising researcher in group meetings. As necessary, the coding scheme was altered to accommodate newly identified features of the data, and completed states were recoded.

- b. **Coding methods:** The legal text coded is limited to syringe distribution statutes and regulations.

Below are coding rules that apply specifically to the coding questions throughout the dataset:

- **Question: “Does the definition of drug paraphernalia explicitly refer to syringes?”**
 - When a jurisdiction includes “injecting” or “syringes” in their definition of drug paraphernalia, but that inclusion is to explicitly exclude “injecting” or “syringes” from the definition, this response was coded “no.”
- **Question: “What information is the seller required to get from the buyer?”**
 - When a jurisdiction requires identification for the purchase of syringes, “buyer’s address” was coded.
- **Question: “Does state law require a prescription for retail sales to adult purchasers in at least some instances?”**

- When a jurisdiction requires a prescription for minors but not adults, “no” was coded with a caution note.
- **Question: “Is syringe exchange explicitly authorized by state law?”**
 - When a jurisdiction authorizes syringe exchange programs through a state level statute or regulation in the case of a public health emergency, “yes” was coded with a caution note.
 - See Indiana for an example: “Although syringe exchange programs are not generally authorized, in counties where a public health emergency has been declared as a result of a hepatitis C or HIV outbreak, qualified entities are authorized to operate a syringe exchange program. See Ind. Code § 16-41-7.5-2; Ind. Code § 16-41-7.5-4; Ind. Code § 16-41-7.5-5; Ind. Code § 16-41-7.5-6”
 - States that allow syringe exchange programs through local authorization only were coded “no”.

For additional information about questions, responses, variable names, and values, please see the project’s Codebook at LawAtlas.org.

V. **Quality Control**

- a. **Quality Control – Research:** Discrepancies were reviewed by a supervising researcher and resolved by further research. Research was compared to the results of an existing compilation of syringe distribution law, available at <http://www.temple.edu/lawschool/phrhcs/phrhcs.htm>.
- b. **Quality Control – Coding:** While the researchers coded, the project manager performed quality control. Quality control consisted of exporting the data into a Microsoft Excel document each day the researchers were coding to examine the data for any missing entries, caution notes, and divergences in the redundantly coded states. The content expert also performed random spot checks of the coding. Alabama, California, Iowa, Kentucky, Michigan, Nebraska, Ohio, Rhode Island, Utah, and Wyoming were redundantly coded.

The project manager used a Coding Review Sheet to note any issues in the data. The Coding Review Sheet was also used to assign a resolution, and track whether the resolution had been carried out. The Coding Review Sheet was sent to the researchers each day. Weekly coding meetings were held to discuss the caution notes and the best way to resolve any problems with the data. For this dataset, some caution notes were left in the dataset to provide additional information to the end user where a state had unusual or noteworthy law. For this dataset, four of the redundantly coded states, specifically Kentucky, Michigan, Rhode Island and Wyoming were re-coded, and reviewed at the end of coding.

- c. Quality Control – Secondary Source Check:** After searching across all 25 states, each researcher compared his or her results to <http://www.temple.edu/lawschool/phrhcs/phrhcs.htm>, and a Westlaw legal update on prohibited drug amounts, available at 28 C.J.S. Drugs and Narcotics § 287. If a law was found that was not located in the initial search, the original search terms were reexamined and altered to capture the newly identified laws. A coding scheme was developed based on review of the identified legal data. Legal texts (relevant excerpts of cases and statutes) were entered into Workbench by state.
- d. Quality Control – Naïve Coding:** When the two researchers completed coding a naïve coder was brought on to code 15% of the records. Divergences were resolved in a meeting of all researchers. Ambiguities in coding or systematic errors were identified and the full data set adjusted and recoded as necessary.

VI. UPDATE: August 2013

- a. Scope:** The general scope of the dataset did not change in this update. However, the team compiled states laws that were newly enacted, and amendments to existing laws. The time period covered includes laws in effect from July 1, 2012 through August 31, 2013.
- b. Data Collection Methods:**

 - i.** Research was conducted by one researcher. The research sought to identify all included laws enacted between August 1, 2012 and August 31, 2013.
 - ii.** Searches were conducted in the state statute and regulation libraries of Westlaw and Lexis Nexis using the following search terms: (“syringe” “needle” “drug paraphernalia” “hypodermic device” & (“deliver!” “distribu!”) NOT “bovine”.
 - iii.** Statutes and regulations were included if they defined drug paraphernalia or similar terms (e.g., drug related objects), set out prohibitions regarding the delivery or distribution of syringes, authorized or regulated syringe exchange or regulated the retail sale of syringes (e.g., restrictions on number of sale, minor purchases). Statutes and regulations were excluded if they addressed only wholesale distribution, or bovine or other industrial or agricultural uses.
- c. Data Collection – Pharmacy Regulations:**

 - i.** Legal research was conducted from March 25, 2013 to August 1, 2013.
 - ii.** Research was conducted by two researchers, each covering half the states including the District of Columbia. The research sought to identify all included laws enacted between August 1, 2012 and August 31, 2013.
 - iii.** To check for state regulations on the sale of needles and syringes by pharmacies and pharmacists, which might not be in other legal databases, researchers searched in the NABP legal database, which is available at: www.nabplaw.net.
 - iv.** The researchers used the advanced search tab in the NABP legal database. For each state the terms “Needle syringe retail sale” were typed in the dialog box

labeled “and containing one or more of these words.” The box next to “Find alternate word forms” was checked and the “search” was conducted.

d. Coding Updated Findings:

- i. The team collectively worked on coding the first 10 states, redundantly coding two states: Alabama and California. The two legal researchers coded the remaining states, and redundantly coded Iowa, Kentucky, Michigan, Nebraska, Ohio, Rhode Island, Utah and Wyoming.
- ii. While the researchers coded, the project manager performed quality control. Quality control consisted of exporting the data into a Microsoft Excel document each day the researchers were coding to examine the data for any missing entries, caution notes, and divergences in the redundantly coded states. The content expert also performed random spot checks of the coding.
- iii. The project manager used a Coding Review Sheet to note any issues in the data. The Coding Review Sheet was also used to assign a resolution, and track whether the resolution had been carried out. The Coding Review Sheet was sent to the researchers each day. Weekly coding meetings were held to discuss the caution notes and the best way to resolve any problems with the data. For this dataset, some caution notes were left in the dataset to provide additional information to the end user where a state had unusual or noteworthy law. For this dataset, four of the redundantly coded states, specifically Kentucky, Michigan, Rhode Island and Wyoming were re-coded, and reviewed at the end of coding.
- iv. When the two researchers completed coding a naïve coder was brought on to code 15% of the states. Eight random states, Alabama, Arkansas, Florida, Kentucky, Maine, New Hampshire, North Carolina, and Pennsylvania, were selected using the Microsoft Excel random number generator feature. The overall rate of divergence was 5%. In July 2013 a Naïve Coding meeting was held to discuss all of the divergences found.
- v. When coding was completed, Workbench summary sheets were used by the project manager and the content expert to check the data and ensure that it was coded properly. Problems were identified in Tennessee, South Carolina and Montana. The project manager and the content expert used Westlaw and HeinOnline to confirm the parent question regarding whether state law prohibits possession of drug paraphernalia, controlled objects, or drug-related objects and its child questions were coded properly by examining the statutory history of the relevant laws as well as any relevant case law. Once the correct answer was confirmed, a caution note was added to these states to identify nuances in the law.

- e. Quality Control:** While the researchers coded, the supervising researcher performed quality control. Quality control consisted of exporting the data into a Microsoft Excel document each day the researchers were coding to examine the data for any missing

entries, caution notes, and divergences in the redundantly coded states. The content expert also performed random spot checks of the coding.

VII. UPDATE: January 2015

a. Scope: The general scope of the dataset did not change in this update. However, the team compiled states laws that were newly enacted, and amendments to existing laws. The time period covered includes laws in effect from July 1, 2012 through January 1, 2015.

b. Data Collection Methods:

- i.** Research was conducted by one researcher. The research sought to identify all included laws enacted between August 2013 and January 2015.
- ii.** Searches were conducted in the state statute and regulation libraries of OpenStates, State websites, Westlaw and Lexis Nexis using the following search terms: (“syringe” “needle” “drug paraphernalia” “hypodermic device” & “syringe exchange.”)
- iii.** Statutes and regulations were included if they defined syringes and hypodermic needles as drug paraphernalia, regulated the sale of hypodermic needles. Statutes and regulations were excluded if they addressed wholesale distribution, or only industrial or agricultural uses.

c. Coding Updated Findings:

- i.** The researcher found amendments and coded new iterations for the following states: Idaho, Maryland, Minnesota, Mississippi, New Hampshire, New York, Oklahoma, Pennsylvania, South Carolina, Tennessee, and Texas.

d. Quality Control

- i.** While the researchers coded, the project manager performed quality control. Quality control consisted of exporting the data into a Microsoft Excel document each day the researcher coded to examine the data for any missing entries, caution notes, and divergences in the redundantly coded states.
 - 1.** As a result of the redundant coding review, the subject matter expert clarified that the exception that allows for syringe possession due to a “legitimate medical purpose” should only be coded when syringes are being sold or distributed outside of an authorized syringe exchange program. An example of a “legitimate medical purpose” is, a statute allowing a pharmacist to sell syringes in an effort to prevent blood borne disease solely for a legitimate medical purpose.
- ii.** 20% of the updated records were redundantly coded by the subject matter expert, Scott Burris. The rate of divergence was 17%. All divergences were discussed and resolved.

VIII. UPDATE: April 2015

- a. **Scope:** The general scope of the dataset did not change in this update. However, the team compiled states laws that were newly enacted, and amendments to existing laws. The time period covered includes laws in effect from July 1, 2012 through April 1, 2015.
- b. **Data Collection Methods:**
 - i. Research was conducted by one researcher and one update supervisor. The research sought to identify all included laws enacted between January 2015 and April 2015.
 - ii. Searches were conducted in the state statute and regulation libraries of OpenStates, State websites, Westlaw and Lexis Nexis using the following search terms: (“syringe” “needle” “drug paraphernalia” “hypodermic device” & “syringe exchange.”
 - iii. Statutes and regulations were included if they defined syringes and hypodermic needles as drug paraphernalia, regulated the sale of hypodermic needles. Statutes and regulations were excluded if they addressed wholesale distribution, or only industrial or agricultural uses.
- c. **Coding Updated Findings:**
 - i. The researchers found an amendment and coded a new iteration for Kentucky.
- d. **Quality Control:**
 - i. The subject matter expert, Scott Burris, coded Kentucky. One researcher redundantly coded Kentucky, while the update supervisor performed quality control. Quality control consisted of exporting the data into a Microsoft Excel document each day the researcher coded to examine the data for any missing entries, caution notes, and divergences in the redundantly coded states.
 - ii. The rate of divergence was 0%.

IX. UPDATE: March 2016

- a. **Scope:** The general scope of the dataset did not change in this update. However, the team compiled states laws that were newly enacted, and amendments to existing laws. The time period covered includes laws in effect from July 1, 2012 through March 1, 2016.
- b. **Data Collection Methods:**
 - i. Research was conducted by one researcher and one update supervisor. The research sought to identify all included laws enacted between April 2015 and March 2016.
 - ii. Searches were conducted in the state statute and regulation libraries of OpenStates, State websites, Westlaw and Lexis Nexis using the following search terms: (“syringe” “needle” “drug paraphernalia” “hypodermic device” & “syringe exchange.”

- iii. Statutes and regulations were included if they defined syringes and hypodermic needles as drug paraphernalia, regulated the sale of hypodermic needles. Statutes and regulations were excluded if they addressed wholesale distribution, or only industrial or agricultural uses.

c. Coding Updated Findings:

- i. The researchers found amendments and coded new iterations for Colorado, Connecticut, the District of Columbia, Delaware, Georgia, Idaho, Indiana, Massachusetts, Maryland, Maine, North Carolina, North Dakota, New Hampshire, Oregon, South Carolina, Tennessee, and Texas.

d. Quality Control:

- i. The update supervisor redundantly coded 20% of the new records which were created in the update. Quality control consisted of the update supervisor exporting the data into a Microsoft Excel document each day the researcher coded to examine the data for any missing entries, caution notes, and divergences in the redundantly coded states.
- ii. The rate of divergence was 0%.

X. UPDATE: October 2016

- a. **Scope:** Four of the dataset's questions were modified in this update, as described below. The team also updated existing coding to reflect changes to the dataset's questions. The dataset was not updated and remained valid through March 1, 2016.

- i. The question, "Does state law require a prescription for retail sale to adult purchasers?" was changed to, "Does state law require a prescription for retail sales to adult purchasers in at least some instances?"
 - 1. As of this update, states which require a prescription for the distribution of syringes to adults will be coded "yes" for this question, regardless of whether there are exceptions to this prescription requirement.
 - 2. At least one state requires a prescription only for minors. This is coded "no" with a caution note citing the requirement for minors.
- ii. The question, "Is there any stated limit on the number of syringes that can be sold at a retail outlet to one purchaser?" was changed to, "Is there any stated number of syringes for which a prescription is not required?"
- iii. The question, "How many may be sold?" was changed to, "How many syringes may be sold without a prescription?"
- iv. The question "Has the state removed references related to syringe from the definition of drug paraphernalia?" has been changed to "Does the definition of drug paraphernalia explicitly refer to syringes?"
 - 1. The responses "Yes, needles, syringes, or hypodermic devices" and "Yes, injection or injecting" were only coded when a state affirmatively included those terms in their definition of "drug paraphernalia." States

that explicitly stated that these terms were not a part of their definition of drug paraphernalia were not coded.

2. The response, “Yes, injection or injecting” was coded if a state referred to “injecting” in their definition of drug paraphernalia, even if any reference to “needles, syringes, or hypodermic devices” was removed. If there was no case law to suggest that “injecting” did not include syringes, a CN was provided.

XI. UPDATE: July 2017

- a. **Scope:** The general scope of the dataset did not change in this update. However, the team compiled states laws that were newly enacted, and amendments to existing laws. The time period covered includes laws in effect from July 1, 2012 through July 1, 2017.
- b. **Data Collection Methods:** Research was conducted by two researchers and one update supervisor. The research sought to identify all included laws enacted between March 2016 and July 2017.

Searches were conducted in the state statute and regulation libraries of OpenStates, State websites, Westlaw and Lexis Nexis using the following search terms: (“syringe” “needle” “drug paraphernalia” “hypodermic device” & “syringe exchange.”)

Statutes and regulations were included if they defined drug paraphernalia or similar terms (e.g., drug related objects), set out prohibitions regarding the delivery or distribution of syringes, authorized or regulated syringe exchange or regulated the retail sale of syringes (e.g., restrictions on number of sale, minor purchases). Statutes and regulations were excluded if they addressed only wholesale distribution, or bovine or other industrial or agricultural uses.

- c. **Coding updated findings:** Twenty-two states (CO, CT, DE, FL, HI, IN, KS, ME, MD, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OR, TN, VA) had amended, or enacted new laws relevant to the dataset.
- d. **Quality control – research:** The first batch of 10 jurisdictions was redundantly researched at a rate of 100% by the researchers, revealing no divergences in updated laws. For subsequent batches, 20% of jurisdictions were redundantly researched by the researchers. The supervisor reviewed both researchers’ results to ensure that all amendments were accurately captured.
- e. **Quality control – redundant coding:** Redundant coding was performed at a rate of 100% on each of five batches of coding. Each batch consisted of 10 jurisdictions, except for the final batch, which consisted of 11 jurisdictions.

The first batch of coding was redundantly coded at a rate of 100%. The divergence rate

was 0%.

The second batch of coding saw no substantive updates. Redundant coding was not necessary.

The third batch of coding was redundantly coded at a rate of 100%. The rate of divergence was 7.69%. All divergences were discussed in a meeting between the supervisor and the researchers, and were resolved.

The fourth batch of coding saw no substantive updates. Redundant coding was not necessary.

The third batch of coding was redundantly coded at a rate of 100%. The rate of divergence was 3.85%. All divergences were discussed in a meeting between the supervisor and the researchers, and were resolved.

- f. Quality control – statistical quality control:** In order to assess the overall error rate of the dataset, Statistical Quality Control (SQC) was performed after all of the original and redundant coding was completed. A sample of 9.8% percent of the dataset’s questions was selected to be checked, with the sample selected based on the risk level of each question. Questions which, when wrong, could impact other questions, were raised in risk level. High risk questions were parent questions from the dataset. Medium risk questions were child level questions, as well as variables from records prior to 2013. This was done to oversample initial records in order to re-verify the dataset’s original coding. Alaska was removed from the sample because it is a “no” state, meaning that there were no applicable laws to code. With 13 divergences out of a potential 330 variables, the divergence rate was 3.9%.

- g. Quality control – final check:** Prior to publication, the Supervisor downloaded all coding data into Microsoft Excel to do a final review of coding answers, statutory and regulatory citations, and caution notes. All unnecessary caution notes were deleted and all necessary caution notes were edited for publication. Any responses which were inconsistent with the project’s coding rules were updated. Any missing citations were added.

The data went through a final check using Stata. All variables were checked to ensure they had 129 coding instances (i.e. no missing values), for a total of 3354 coding instances checked (129 records multiplied by 26 variables). All variables were tabbed to ensure that all values were consistent with the codebook options for the values of the variables. In addition, using excel, the effective dates and valid through dates for every record were checked to ensure there were no gaps between them, such that every jurisdiction had records 7/1/2012 until 7/1/2017.