TITLE 7 HEALTH
CHAPTER 4 DISEASE CONTROL
PART 6 REQUIREMENTS GOVERNING THE HARM REDUCTION/SYRINGE EXCHANGE PROGRAM

7.4.6.1 ISSUING AGENCY: Department of Health, Public Health Division, Bureau of Infectious Diseases, 1190 St. Francis Drive, P.O. Box 26110, Santa Fe, New Mexico 87502-6110.
[7.4.6.1 NMAC - Rp, 7.4.6.1 NMAC, 12/30/2016]

7.4.6.2 SCOPE: These regulations govern the operation of harm reduction programs for the purpose of sterile hypodermic syringe and needle exchange, education to participants, and referral to further substance treatment pursuant to the Harm Reduction Act (Section 24-2C-1 et seq. NMSA 1978).
[7.4.6.2 NMAC - Rp, 7.4.6.2 NMAC, 12/30/2016]

7.4.6.3 STATUTORY AUTHORITY: The statutory authority for adopting these rules is found in Subsection E of Section 9-7-6 NMSA 1978 and the New Mexico Harm Reduction Act (Section 24-2C-1 et seq. NMSA 1978), the Public Health Act (Section 24-1-3 NMSA 1978) and the Controlled Substances Act (Section 30-31-25.1A NMSA 1978).
[7.4.6.3 NMAC - Rp, 7.4.6.3 NMAC, 12/30/2016]

7.4.6.4 DURATION: Permanent.
[7.4.6.4 NMAC - Rp, 7.4.6.4 NMAC, 12/30/2016]

7.4.6.5 EFFECTIVE DATE: December 30, 2016, unless a later date is cited at the end of a section.
[7.4.6.5 NMAC - Rp, 7.4.6.5 NMAC, 12/30/2016]

7.4.6.6 OBJECTIVE: Regulations are required by the Harm Reduction Act to establish and regulate harm reduction programs including syringe exchange programs as a component to reduce the transmission of blood borne viral infections among individuals injecting substances, to offer referrals to substance use treatment, and offer participants in department of health authorized syringe exchange programs individual counseling and education to decrease the risk of transmission of blood borne diseases.
[7.4.6.6 NMAC - Rp, 7.4.6.6 NMAC, 12/30/2016]

7.4.6.7 DEFINITIONS: as used in these regulations:

A. "Authorized Harm Reduction Provider (AHRP)" means a public health office, community agency, service provider, individual, or other location which has applied and been accepted by the New Mexico department of health to provide harm reduction activities in accordance with the requirements of the Harm Reduction Act, these regulations and department of health protocols and guidelines.

B. "Biohazard bag" means the red plastic bags marked for biohazard waste containment for materials which pose no risk of skin puncture.

C. "Blood borne pathogens" means the hepatitis B virus (HBV), hepatitis C virus (HCV), the human immunodeficiency virus (HIV) and any other blood borne disease

D. "Client" means an individual who is enrolled with a department of health AHRP.

E. "Department" means the New Mexico department of health.

F. "Harm Reduction Act" means Section 24-2C-1 et seq. NMSA 1978.

G. "Harm reduction activities" means, but is not limited to: distribution of new syringes and the collection of used syringes; disposal methods for used syringes and other potential biohazard material; education regarding substance use, needle sharing behaviors, injection techniques, and other health related topics which can reduce the transmission of blood borne pathogens and other health complications; overdose education and prevention, including the distribution of naloxone for the purpose of overdose prevention; and, provision of referrals and support to access substance use treatment.

H. "Harm reduction program" means the team of staff members within the department public health division who have the primary responsibility to regulate and implement the provisions of the Harm Reduction Act, these regulations, and related department protocols and guidelines.

I. "Harm reduction session" means when harm reduction activities are conducted or facilitated. This includes activities conducted in a fixed building location or through mobile methods; including motor vehicles,

bicycles, walking, or other modes of transportation.

J. "Harm reduction specialist" means an employee or volunteer of an AHRP who has completed the department approved harm reduction certification curriculum.

K. "Individuals injecting substances" means people who inject substances into their body with syringes, or who have previously injected substances into their body with syringes.

L. "Needle stick accident" means an event in which a staff member, volunteer or client is inadvertently or unintentionally stuck with a syringe.

M. "SHARPS" also known as a biohazard waste container, means a container certified by the United States department of labor occupational safety and health administration for the disposal of used syringes, or other potentially hazardous material.

N. "SHARPS card" means a card issued to clients by the department of health or AHRPs which verify the client is enrolled in the syringe service program.

O. "SHARPS ID code" means a unique alpha-numeric code assigned to a client through the process determined by the harm reduction program.

P. "Staff" means employees or volunteers of an AHRP who engage in providing harm reduction activities.

Q. "Syringe" means a hypodermic syringe or needle, unless otherwise specified, and may be of any size or gauge.

R. "Works" means items utilized by clients in the process of preparing substances for injection or smoking, as distributed by an AHRP and may include: alcohol wipe pads, antibiotic ointment, ascorbic acid, cottons, gauze pads, medical gloves, and any other items as determined by the harm reduction program to help reduce the transmission of blood borne pathogens.

[7.4.6.7 NMAC - Rp, 7.4.6.7 NMAC, 12/30/2016]

7.4.6.8 GENERAL PROVISIONS GOVERNING THE AHRP APPLICATION APPROVAL AND REVOCATION PROCESSES:

A. Any entity seeking to become an AHRP must submit a written application to offer a comprehensive program of harm reduction activities to the harm reduction program. The application must include, at a minimum:

(1) the name of the entity;

(2) the primary contact information, including: name, telephone number and email address;

(3) the mailing address of the entity;

(4) definition of the geographic area to be served by the entity;

(5) a statement confirming that if approved, the entity will participate in training and evaluation activities as required by the harm reduction program;

(6) relevant experience in providing disease prevention services, health care services, social services or substance use treatment services to individuals injecting substances; and

(7) any other information required by the harm reduction program.

B. The harm reduction program shall review applications to determine whether they meet the statutory and regulatory requirements. Upon approval of the application, the entity will be authorized by the harm reduction program as an AHRP. This includes referring and facilitating access to further substance use treatment for clients when possible.

C. AHRPs must comply with these regulations, including safety requirements, client enrollment procedures, and confidentiality of client information. Failure to do so is grounds for revocation of the authorization to conduct harm reduction activities.

(1) A notice of noncompliance will be provided in writing by the harm reduction program to the AHRP of the failure to comply with requirements. This written notice must include the specific deficiencies.

(2) Within 10 calendar days of the notice of noncompliance, the AHRP will develop and submit to the harm reduction program a written corrective action plan to address the deficiencies. The corrective action plan shall include:

(a) steps required to correct the deficiencies; and

(b) a deadline of no more than 90 calendar days for completion.

(3) Assurance of compliance to correct the deficiencies will be determined by the harm reduction program conducting a site inspection at the end of the corrective action plan. The results of the inspection will be provided to the AHRP in writing within 10 calendar days of the site inspection.

(a) If the AHRP has corrected the deficiencies within the time frame outlined by the

corrective action plan the notice of noncompliance shall be withdrawn; or

(**b**) if the AHRP has not been able to correct the deficiencies within the timeframe provided in the corrective action plan, their authorization to conduct harm reduction activities will be revoked, with an effective date of 10 calendar days after the written results of the site inspection are provided to the AHRP.

(4) The AHRP may request an extension of the corrective action plan of no more than 60 days. This request for an extension must be submitted to the harm reduction program in writing within five calendar days of receiving the written results from the site inspection.

(5) At the end of the extension, an additional site inspection will be conducted to assure compliance. The results will be provided to the AHRP in writing within 10 calendar days of the site inspection.

(a) If the AHRP has corrected the deficiencies within the time frame outlined by the corrective action plan the notice of noncompliance shall be withdrawn; or

(**b**) If the AHRP has not been able to correct the deficiencies within the timeframe provided in the corrective action plan, its authorization to conduct harm reduction activities will be revoked, with an effective date of 10 calendar days after the written results of the site inspection are provided to the AHRP.

(6) The AHRP may submit a written appeal to the public health division director of a revocation of its authorization to conduct harm reduction activities. This appeal must be submitted within 10 calendar days of the notice of revocation.

[7.4.6.8 NMAC - Rp, 7.4.6.8 NMAC, 12/30/2016]

7.4.6.9 AUTHORIZED HARM REDUCTION PROVIDER REQUIREMENTS:

A. The AHRP must maintain a regular and predictable schedule for services in order to promote participation by clients. The AHRP should seek the input of clients and other AHRPs in the geographic area prior to determining the schedule of harm reduction sessions and locations. The schedule must be approved by the harm reduction program prior to implementation. The AHRP must notify the harm reduction program of any modifications to the schedule 30 days in advance of projected implementation. The new schedule shall not be implemented before harm reduction program approval has been received.

B. The AHRP may cancel a harm reduction session in the event of severe weather, threats or acts of violence, or other unforeseen emergencies which may create an unsafe environment.

C. The AHRP must provide information to clients about the scheduled hours, dates and locations for harm reduction sessions.

D. The AHRP must make available educational material to clients on the transmission and prevention of blood borne pathogens and substance use treatment options.

E. The AHRP shall conduct harm reduction sessions in a manner which promotes safety and does not promote loitering, unruly behavior, unlawful activities, or detracts from the safety and serenity of the neighborhood. The AHRP must notify the harm reduction program within 72 hours of any concerns or complaints received by the AHRP regarding harm reduction activities.

F. The AHRP must have at least two staff present, or within voice range, at all times during harm reduction sessions. Staff members conducting syringe exchange must be 18 years of age or older. Staff members may not be impaired during harm reduction sessions.

G. All staff must be vaccinated or immune to the hepatitis B virus unless they have a specific contraindication for receiving the hepatitis B vaccine. It is the responsibility of the AHRP to verify all staff have:

(1) received the appropriate vaccination for hepatitis B; or

(2) are immune to the hepatitis B virus; or

(3) have a contraindication for receiving the hepatitis B vaccine and have signed an acknowledgement of this and release the AHRP, the harm reduction program, and department from liability with regard to the hepatitis B virus.

H. Staff should never directly handle used syringes, SHAPRS containers, or other biohazard materials brought by clients or community members. The individual bringing these items should deposit them directly into the appropriate container or location as directed by the staff.

I. Staff shall follow these regulations and the United States department of labor occupational safety and health administration standards with regard to the proper handling and legal disposal of SHARPS and other biohazard material.

J. AHRPs must record and report provided harm reduction activities utilizing:

(1) daily log forms recording exchanges approved by the harm reduction program;

(2) enrollment surveys approved by the harm reduction program; and

(3) re-enrollment surveys approved by the harm reduction program.

K. The AHRP must develop and maintain an accidental needle stick protocol. If a person experiences a needle stick accident, the AHRP accidental needle stick protocol should be followed.

L. The AHRP is required to have a telephone, preferably with video capability, when conducting all harm reduction activities.

M. The AHRP must report all unexpected harm reduction session cancellations, needle stick accidents, violent acts, incidents involving law enforcement agents, and arrests of clients or staff during a harm reduction session as soon as possible to the harm reduction program.

N. AHRPs must demonstrate their response to make reasonable efforts to resolve concerns raised by residents, community groups, community business people, and law enforcement agencies in the neighborhoods where services are offered.

O. AHRPs must maintain a copy of their authorization to conduct harm reduction activities on location while conducting harm reduction activities

P. AHRPs must cooperate with the department in data collection, site visits and inspections, quality assurance, and other efforts to evaluate harm reduction activities.

(1) The AHRP must keep all daily log forms, enrollment, and re-enrollment records for three years in a secure location with appropriate safeguards against theft or tampering.

(2) All AHRPs must provide the harm reduction program with the daily log forms, client enrollment, and re-enrollment surveys.

Q. AHRPs are encouraged to coordinate their efforts with other AHRPs to avoid duplication.

[7.4.6.9 NMAC - N, 12/30/2016]

7.4.6.10 CLIENT ELIGIBILITY AND ENROLLMENT:

A. Any individual in New Mexico 18 years of age or older is eligible to be enrolled with an AHRP and may carry a SHARPS card to demonstrate enrollment.

B. Enrollment and re-enrollment of clients in an AHRP.

(1) Each new client shall be interviewed by staff in order to complete an enrollment survey approved by the harm reduction program. All information provided to the AHRP and the harm reduction program by clients remains confidential pursuant to state and federal law.

(2) Once clients complete the initial enrollment at any AHRP they can then participate with any AHRP in the state of New Mexico. Clients do not need to re-enroll at each AHRP where they seek services.

(3) Once the enrollment survey is conducted, clients will be issued a SHARPS card.

(4) The SHARPS card shall not bear the client's name. It shall have a unique identifying SHARPS ID code assigned to each client upon enrollment. The SHARPS ID code will utilize a unique code as determined by the harm reduction program.

(5) The staff will enter an expiration date of one calendar year following the date of enrollment on the SHARPS card.

(6) Clients must re-enroll annually. At the time of re-enrollment, clients will be asked to complete a re-enrollment survey approved by the harm reduction program.

(7) Clients must be issued a new SHARPS card at the time of re-enrollment with an expiration date of one calendar year following the date of re-enrollment.

(8) At the time of enrollment and re-enrollment clients must be instructed the SHARPS card is only for the use of the person to whom the card was issued.

(9) Clients shall be informed that syringe exchange program participation will not prohibit their arrest or prosecution for the possession of residue in syringes or works, nor will it prohibit their arrest or prosecution at times other than when they are engaged in a harm reduction activity.

(10) Clients shall be offered 30 syringes plus the number of syringes that are brought for exchange at the time they complete the enrollment or re-enrollment survey. Subsequent interactions are intended to be an exchange which trades used syringes for sterile syringes. Exceptions in the quantity of syringes exchanged may be made by staff for reasons such as: maintaining integrity of packaging; when a client states syringes have been lost, stolen, or confiscated; limited accessibility to syringe exchange programs; utilizations of syringe collection boxes; or recent release from incarceration or drug treatment facilities.

(11) Clients shall be offered SHARPS and works, if available.

[7.4.6.10 NMAC - Rp, 7.4.6.9 NMAC, 12/30/2016]

7.4.6.11 SYRINGE EXCHANGE PROGRAM CLIENT REQUIREMENTS:

A. Clients must provide their SHARPS ID code to staff in order to obtain new syringes.

B. Follow the department and AHRP guidelines, as informed by AHRP staff, with regard to handling and disposing of their personal SHARPS and biohazard material.

C. Client must not carry weapons or substances on them during a harm reduction session.

D. Refrain from threatening behavior and acts of violence at a harm reduction session. Failure to do so may result in suspension from the program.

[7.4.6.11 NMAC - Rp, 7.4.6.11 NMAC, 12/30/2016]

HISTORY OF 7.4.6 NMAC:

History of Repealed Material:

7.4.6 NMAC, Requirements Governing the Harm Reduction/Syringe Exchange Program, filed 09/17/1999 - Repealed effective 12/30/2016.