

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



FROM: Supervisor Jeff Stone

SUBMITTAL DATE: February 22, 2005


SUBJECT: RESOLUTION 2005-077 – Resolution to Oppose the Provisions of Senate Bill 1159 and Support the Requirement of a Prescription Issued by a Health Care Professional, Licensed by the State of California, to obtain Hypodermic Syringes and Needles.

RECOMMENDED MOTION:

That the Board join with me in the support and adoption of Resolution 2005-077, opposing the provisions of Senate Bill 1159 and discouraging cities and communities throughout Riverside County from adopting ordinances facilitating implementation of Senate Bill 1159.

BACKGROUND:

Senate Bill 1159 was enacted to allow Cities and Counties the ability to legalize, via ordinance, the dispensing of hypodermic needles and syringes without a prescription from a licensed health care professional, licensed by the State of California. Such legislation could result in negative impacts to the citizens they serve and the communities they live in. Resolution 2005-077 opposes SB 1159 and supports the requirement of a prescription issued by a health care professional, licensed by the State of California, to obtain hypodermic syringes and needles.



Jeff Stone
Supervisor
Third District

JS:vc

RESOLUTION #2005-077

1 RESOLUTION TO OPPOSE THE PROVISIONS OF SENATE BILL 1159 AND
2 SUPPORT THE REQUIREMENT OF A PRESCRIPTION ISSUED BY A HEALTH CARE
3 PROFESSIONAL, LICENSED BY THE STATE OF CALIFORNIA, TO OBTAIN
4 HYPODERMIC SYRINGES AND NEEDLES

5 Whereas, Senate Bill 1159 was enacted to allow Cities and
6 Counties to legalize via ordinance, the dispensing of hypodermic
7 needles and syringes without a prescription from a licensed
8 health care professional licensed by the State of California; and

9 Whereas, Cities and Counties are responsible for the health and
10 safety of the citizens they serve; and

11 Whereas, such legislation could result in legal liability for
12 wrongful death lawsuits in overdose cases, or accidents involving
13 people under the influence of parenteral illicit drugs; and

14 Whereas, medically unsupervised people could be careless with the
15 disposal and exposure of used needles increasing the prevalence
16 of AIDS and hepatitis; and

17 Whereas, the proliferation of licensed "needle pharmacies" could
18 have a negative impact on surrounding properties leading to
19 inverse condemnation suits against Cities and Counties, and
20 increased crime; and

21 Whereas, the patrons and employees, including pharmacists, at
22 retail pharmacies, could be in danger due to interactions with
23 addicts that may be potentially under the influence of controlled
24 substances;

25 Therefore, Be It Resolved, that the Riverside County Board of
26 Supervisors, will not support the provisions of Senate Bill 1159
27 and discourages cities and communities throughout Riverside
28 County from adopting ordinances facilitating implementation of
Senate Bill 1159, and as such, maintains that any dispensing of a
hypodermic syringe or needle, only be dispensed at the discretion
of a health care professional for a legitimate medical need and
only via a prescription of a health care professional licensed by
the State of California to prescribe legend medicines.

California Narcotic Officers' Association

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February 3, 2005

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Dear Supervisor;

As the President of the California Narcotic Officers' Association, which represents over 7,500 law enforcement professionals throughout California, I am writing to alert you to a recent change in California law that could dramatically increase the risk of civil liability exposure to a city or a county.

Senate Bill 1159, which was enacted during the last legislative session, permits pharmacies to sell up to ten needles to anyone over eighteen provided they receive an authorization to do so from a local city council or a county board of supervisors. It is the view of the California Narcotic Officers' Association that any city council or board of supervisors that provides such an authorization will be facing liability exposure under a number of circumstances. Here are only a few such examples:

- A child picks up a needle that has been discarded by someone who purchased it from a pharmacy that was authorized to sell needles by the city council or board of supervisors. In a copycat fashion typical of small children, the child sticks the needle into their arm, and becomes ill. If the local government did not exercise due care with respect to disposal of those needles (something they would have a difficult time showing), they could be liable for all costs in connection with the harm done to the child.
- A peace officer patting down a suspect is stuck by a needle in possession of the suspect, who claims to have obtained that needle from a pharmacy authorized by local government action. The local government will incur liability.
- Neighborhoods suffering loss in property values due to the proximity of an authorized needle pharmacy will be able to bring inverse condemnation actions against the local government entity for the devaluation of their property due to the presence of that authorized pharmacy.
- A person using a needle from an authorized pharmacy who overdoses and dies could give rise to a wrongful death action brought by their family against the local government.
- Current law requires that needles be sheathed to protect hospital workers from accidental needle sticks. It is probable that in any litigation for negligent operation of a local government authorized pharmacy needle sale program, the court would rule that same prudent standard be applied to city or county needle-exchange programs. Moreover, since single-use needles are now available, cities and counties could also be required to limit their authorization to pharmacies to the sale of single-use needles only, since that would be a more prudent type of authorization.

These are just a few examples of potential exposure to cities and counties for the decisions made in authorizing pharmacies to sell needles. Frankly, CNOA believes there will be countless other instances in which cities and counties will face liability exposure as a result of their authorization of these types of pharmacy needle sales. The various ways in which cities and counties will be placed at risk is truly limited only by the imagination of the plaintiff's lawyer.

If you wish to discuss these issues further, please do not hesitate to contact Mr. John Lovell, our Legislative Counsel at (916) 447-3820.

Sincerely,



Bob Cooke
President
California Narcotic Officers' Association

"FOR BETTER NARCOTIC ENFORCEMENT"