

1 WHEREAS, more than 21,048 persons in Broward County are living with the
2 human immunodeficiency virus (“HIV”);

3 WHEREAS, in 2018 there were approximately 675 hepatitis B cases reported in
4 Broward County;

5 WHEREAS, in 2018 there were approximately 1,844 hepatitis C cases reported in
6 Broward County;

7 WHEREAS, needle and syringe exchange programs are harm reduction social
8 service initiatives that provide intravenous drug users with sterile needles and hypodermic
9 syringes to reduce the transmission of HIV, hepatitis, and other blood-borne viruses;

10 WHEREAS, needle and syringe exchange programs have been correlated with
11 decreases in overdose deaths, decreases in new cases of HIV infections among
12 intravenous drug users, and decreases in related health care costs;

13 WHEREAS, participants in needle and syringe exchange programs are usually
14 offered immunizations, testing for infectious diseases, and treatment options, which have
15 shown to result in increased chances of recovery from substance addiction;

16 WHEREAS, the Florida Legislature has approved the Infectious Disease
17 Elimination Act, as codified in Section 381.0038(4), Florida Statutes, authorizing a county
18 commission to establish a sterile needle and syringe exchange program with the goal of
19 eliminating infectious diseases; and

20 WHEREAS, the Board of County Commissioners of Broward County, Florida
21 ("Board") has determined that it is in the best interests of the public to establish authority
22 for operation of a needle and syringe exchange program within Broward County to
23 decrease the transmission of infectious diseases,

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1 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
2 BROWARD COUNTY, FLORIDA:

3 Section 1. Section 15-13 of the Broward County Code of Ordinances is hereby
4 created to read as follows:

5 [Underlining omitted]

6 **Sec. 15-13. The Broward County Safe Syringe Exchange Program.**

7 (a) *Creation and Purpose.* As authorized by the Infectious Disease Elimination
8 Act, Section 381.0038(4), Florida Statutes, a sterile needle and hypodermic syringe
9 exchange program titled "The Broward County Safe Syringe Exchange Program" is
10 hereby created and authorized to operate in Broward County. The purpose of the program
11 is to offer the free exchange of clean, unused needles and hypodermic syringes for used
12 needles and hypodermic syringes as a means to prevent the transmission of HIV, AIDS,
13 viral hepatitis, or other blood-borne diseases among intravenous drug users and their
14 sexual partners and offspring.

15 (b) *Applicability.* This section will be applicable in both the incorporated and
16 unincorporated areas of Broward County.

17 (c) *Definitions.*

18 (1) Act means the Infectious Disease Elimination Act codified in
19 Section 381.0038(4), Florida Statutes.

20 (2) Board means the Board of County Commissioners of Broward County,
21 Florida.

22 (3) Operator means the provider contracted to operate the Safe Syringe
23 Exchange Program.

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1 (4) Safe Syringe Exchange Program or Program means a sterile needle and
2 syringe exchange program authorized by the Board and operated in
3 accordance with the requirements established in the Act and in accordance
4 with the terms and conditions of the operator's contract.

5 (d) *Authorization for an Exchange Program.*

6 (1) As required by the Act, a sterile needle and syringe exchange program is
7 authorized to operate within the geographic boundaries of Broward County.

8 (2) The Program must offer the free exchange of clean, unused needles and
9 hypodermic syringes for used needles and hypodermic syringes, with the
10 primary goal of preventing the transmission of HIV, AIDS, viral hepatitis, or
11 other blood-borne diseases among intravenous drug users and their sexual
12 partners and offspring, and with the secondary goal of providing a bridge to
13 drug treatment, recovery support, and other social services for intravenous
14 drug users.

15 (3) The Safe Syringe Exchange Program may operate at one (1) or more fixed
16 locations or through mobile health units.

17 (4) It is unlawful to operate a Safe Syringe Exchange Program unless the
18 Operator is under contract with the Board as required by the Act.

19 (e) *Conditions Precedent to Establishing the Safe Syringe Exchange Program.*

20 In accordance with the Act, the Board must complete the following requirements prior to
21 the start of the Safe Syringe Exchange Program:

22 (1) Enter into a letter of agreement with the Florida Department of Health, in
23 which the Board agrees that the Safe Syringe Exchange Program will
24 operate in accordance with the requirements of the Act;

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- 1 (2) Enlist the Broward County Health Department to provide ongoing advice,
2 consultation, and recommendations for the operation of the Program; and
- 3 (3) Contract with the Operator to operate the Program in accordance with this
4 section.
- 5 (f) *Approval of Operator.*
- 6 (1) The Board must approve an Operator for the Safe Syringe Exchange
7 Program. As required by the Act, the Operator must be one (1) of the
8 following entities:
- 9 a. A hospital licensed under Chapter 395;
10 b. A health care clinic licensed under Part X of Chapter 400;
11 c. A medical school in this state accredited by the Liaison Committee
12 on Medical Education or the Commission on Osteopathic College
13 Accreditation;
14 d. A licensed addictions receiving facility as defined in
15 Section 397.311(26)(a)1, Florida Statutes; or
16 e. A 501(c)(3) HIV/AIDS service organization.
- 17 (2) The Operator must contract with the Board to provide the services
18 authorized by this Ordinance, which must be incorporated into the
19 Operator's contract. The Operator's contract must include provisions
20 establishing each of the following:
- 21 a. An oversight and accountability system to ensure compliance with
22 the requirements of the Act and the contractual obligations and
23 requirements included in the Operator's contract with the Board;
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- 1 b. Measurable objectives to assess the effectiveness of the oversight
2 and accountability system in achieving the goals and objectives of
3 the Program;
4 c. Periodic tracking, quarterly at a minimum, of the Program’s goals and
5 objectives and progress in achieving those goals and objectives;
6 d. Specific consequences and remedies for noncompliance with the
7 oversight and accountability system; and
8 e. Requirements to comply with all state statutes and Florida
9 Administrative Code regulations, whether now existing or
10 subsequently promulgated, concerning the Act; and to comply with
11 all local laws and regulations concerning zoning, licensing, fire
12 safety, and any other local requirements related to operation of the
13 Program, whether now existing or subsequently promulgated.

14 (g) *Security of Sites and Equipment.* The Operator must provide for maximum
15 security of sites where needles and syringes are exchanged and of any equipment used
16 under the Program, and must establish written security procedures. The Operator must
17 include these security procedures in the Operator’s training and onboarding process for
18 all contractors, employees, and volunteers assisting in the Program. At a minimum, the
19 security procedures must include:

- 20 (1) An accounting of the number of needles and syringes in use;
21 (2) The number of needles and syringes in storage;
22 (3) Safe disposal of returned needles; and
23 (4) Any other measure that may be required to control the use and dispersal of
24 sterile needles and syringes.

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1 (h) *Safe Syringe Exchange Program Operations.*

2 (1) The Safe Syringe Exchange Program authorized under this Ordinance will
3 operate on a one-to-one exchange basis, whereby a Program participant
4 receives one (1) sterile needle and syringe unit in exchange for each used
5 one.

6 (2) Whenever needles or syringes are exchanged, the Program must offer
7 educational materials regarding the transmission of HIV, viral hepatitis, and
8 other blood-borne diseases.

9 (3) The Operator must provide onsite counseling or referrals for drug abuse
10 prevention, education, treatment, and recovery support services, and must
11 provide onsite HIV and viral hepatitis screening or referrals for the
12 screening. If the services are offered solely by referral, they must be made
13 available to participants within seventy-two (72) hours after referral.

14 (4) The Operator must also support and facilitate, to the maximum extent
15 practicable, linkage to health care and mental health services, housing
16 assistance, and employment and education counseling for Program
17 participants.

18 (5) The Operator must provide kits containing an emergency opioid antagonist,
19 as defined in Section 381.887, Florida Statutes, or provide referrals to a
20 program that can provide the kits.

21 (i) *Data and reporting requirements for Safe Syringe Exchange Program.*

22 (1) The Program shall prepare an annual report to the Board and to the
23 Florida Department of Health, which must be submitted no later than
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1 August 1 annually. The Program must collect and monitor, at a minimum,
2 the following data elements to be included in the annual report:

- 3 a. The number of participants served;
- 4 b. The number of used needles and syringes received, and the number
5 of clean, unused needles and syringes distributed through exchange
6 with participants;
- 7 c. The number of participants entering drug counseling and treatment,
8 recovery support, and other social services;
- 9 d. The number of participants receiving testing for HIV, AIDS, viral
10 hepatitis, or other blood-borne diseases;
- 11 e. Any other data collection methods and outcomes measurements that
12 may be required under Florida Department of Health rule or Board
13 contract requirement; and
- 14 f. The demographic profiles of the participants served.

15 (2) The personal identifying information of a Safe Syringe Exchange Program
16 participant must not be collected for any purpose.

17 (j) *Lawful Participation in the Safe Syringe Exchange Program.*

18 (1) The possession, distribution, or exchange of needles or syringes as part of
19 the Safe Syringe Exchange Program established by the Board in
20 accordance with Section 381.0038(4), Florida Statutes, is not a violation of
21 any part of Chapter 893, Florida Statutes, or any other law.

22 (2) Despite subsection (j)(1) above, a Safe Syringe Exchange Program staff
23 member, volunteer, or participant is not immune from criminal prosecution
24 for:

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1 a. The possession of needles or syringes that are not a part of the
2 Safe Syringe Exchange Program; or

3 b. The redistribution of needles or syringes in any form, if acting outside
4 the Needle Exchange Program.

5 (k) *State, County, and Municipal Funds Prohibited.* In accordance with the Act,
6 state, county, or municipal funds cannot be used to operate a needle and syringe
7 exchange program. The Operator will be required to fund the Safe Syringe Exchange
8 Program operations through grants and donations from private resources and funds.

9
10 Section 2. Severability.

11 If any portion of this Ordinance is determined by any court to be invalid, the invalid
12 portion will be stricken, and such striking will not affect the validity of the remainder of this
13 Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be
14 legally applied to any individual, group, entity, property, or circumstance, such
15 determination will not affect the applicability of this Ordinance to any other individual,
16 group, entity, property, or circumstance.

17
18 Section 3. Inclusion in the Broward County Code of Ordinances.

19 It is the intention of the Board of County Commissioners that the provisions of this
20 Ordinance become part of the Broward County Code of Ordinances as of the effective
21 date. The sections of this Ordinance may be renumbered or relettered and the word
22 "ordinance" may be changed to "section," "article," or such other appropriate word or
23 phrase to the extent necessary in order to accomplish such intention.

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Section 4. Effective Date.

This Ordinance is effective as of the date provided by law.

ENACTED December 3, 2019

FILED WITH THE DEPARTMENT OF STATE December 4, 2019

EFFECTIVE December 4, 2019

Approved as to form and legal sufficiency:
Andrew J. Meyers, County Attorney

By /s/ Karen S. Gordon 12/03/19
Karen S. Gordon (date)
Senior Assistant County Attorney

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