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Melanie Zimmerman
Executive Secretary
State Board of Pharmacy
P. O. Box 2649
Harrisburg, PA 17105-2649

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 INDEPENDENT REGULATORY
 PHARMY COMMISSION

RE: PROPOSED RULE REGARDING SALES OF HYPODERMIC NEEDLES AND SYRINGES

Dear Ms. Zimmerman:

I write as an independent expert in public health law, and as a member of the Board of Directors of Philadelphia's needle exchange program, Prevention Point Philadelphia. Overall, I strongly support this effort to bring Pennsylvania's syringe access regulations into line with national norms and practices. The Board's proposed change is in line with public health evidence and will improve the health of Pennsylvanians without adding to crime or drug use. While I generally support the proposed change, I have some reservations about limiting the number of syringes sold in any one transaction to 30, and requiring a prescription for purchasers under 18 years old.

1. The Proposed Change Will Bring Pennsylvania into Line with Other States

This is a summary of pharmacy regulations regulating syringe sales in the United States. It is drawn from Scott Burris, Jon S. Vernick, Alyssa Ditzler, and Steffanie Strathdee, *The Legality of Selling or Giving Syringes to Injection Drug Users*, 42 J. American Pharmaceutical Association S13 (2002).

No other state has a pharmacy regulation requiring a prescription for the purchase of syringes by adults. Only two states (NJ and DE) still require prescriptions for all adult purchasers by statute.

Most states do not significantly regulate the sale of syringes. Experience has shown that leaving syringe sales to the discretion of the pharmacist or other retail dealer does not create problems of social order or public health.

- The most common limit, found in 22 jurisdictions is that needles may only be sold at retail in pharmacies.
- Fifteen require special record-keeping of syringe sales.
- Eleven require a purchaser to show ID
- Eleven limit how syringes may be displayed for sale (i.e., require that they be behind the counter or in a locked case).
- Nine require the seller to determine that the buyer has a legitimate medical purpose.

The proposed change in Pennsylvania's existing syringe prescription regulation would place the Commonwealth well within the mainstream of pharmacy policy in the U.S. Given the apparent lack of problems in states that do not regulate syringe sales through the pharmacy code, such a course would be an efficient use of regulatory resources.

2. The Proposed Change Will Not Interfere with Law Enforcement Efforts

The repeal of the prescription regulation will not have any formal effect on the Pennsylvania drug paraphernalia statute, 35 Pa. Cons. Stat. § 780-113(a)(33). Pharmacists are not and have never been involved in trafficking drug paraphernalia. Selling syringes to individual drug users in the normal course of business does not threaten public welfare, but rather promotes public health. It is a common practice throughout the country. **There is no reported case anywhere in Pennsylvania or in the US as a whole of a pharmacist being prosecuted, let alone convicted, for violating a paraphernalia law by selling syringes to a drug user.**

3. Reservations: 30 syringes, Minors

The proposed change will surely benefit public health. The limitation of syringes sold in any one transaction to 30 is NOT justified by public health or public safety considerations. While 30 is an ample number, the national public health goal of ensuring that a new, sterile syringe is used for each injection is better served by imposing no limit. Syringes are often sold in boxes of 100 or more, so both convenience and price might move a drug user to buy more than 30 syringes in any one pharmacy visit. The limits, which have also been imposed in several other states that have removed statutory prescription requirements, are politically motivated rather than driven by evidence.

The question of non-prescription access for minors is a difficult one. I oppose the Board's requirement of a prescription for people under 18 for three reasons:

- I can envision circumstances in which access to a syringe would save a young drug user's life;
- there is NO evidence that syringe access encourages youth drug abuse; and
- I have ample faith in the good judgment and discretion of pharmacists to appropriately deal with such a situation.

In conclusion, I applaud the Board's decision and support the adoption of the proposed rule. I encourage the Board, however, to reconsider and lift the limits on the number of syringes sold and access for minors.

With best wishes,

