

1 AN ACT
2 RELATING TO HEALTH; AMENDING THE HARM REDUCTION ACT TO EXPAND
3 SUPPLIES OR DEVICES PROVIDED TO HARM REDUCTION PROGRAM
4 PARTICIPANTS; PROVIDING THAT POSSESSION OF CERTAIN SUPPLIES
5 OR DEVICES IS NOT A VIOLATION OF THE CONTROLLED SUBSTANCES
6 ACT; ADJUSTING THE DEPARTMENT OF HEALTH AND ADVISORY
7 COMMITTEE DUTIES PERTAINING TO THE HARM REDUCTION PROGRAM;
8 ADJUSTING ADVISORY COMMITTEE MEMBERSHIP; REPEALING SECTIONS
9 24-2C-2 AND 24-2C-6 NMSA 1978 (BEING LAWS 1997, CHAPTER 256,
10 SECTIONS 2 AND 6).

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

13 SECTION 1. Section 24-2C-3 NMSA 1978 (being Laws 1997,
14 Chapter 256, Section 3) is amended to read:

15 "24-2C-3. DEFINITIONS.--As used in the Harm Reduction
16 Act:

17 A. "department" means the department of health;
18 and

19 B. "participant" means a person who receives
20 supplies or devices or services provided by the harm
21 reduction program."

22 SECTION 2. Section 24-2C-4 NMSA 1978 (being Laws 1997,
23 Chapter 256, Section 4) is amended to read:

24 "24-2C-4. HARM REDUCTION PROGRAM CREATED--DEPARTMENT
25 RESPONSIBILITIES.--

1 A. The department shall:

2 (1) establish and administer a program that
3 shall be known as the "harm reduction program" to reduce
4 overdose mortality and other negative health outcomes
5 associated with drug use;

6 (2) pursuant to rules established by the
7 department, qualify persons as harm reduction program
8 participants, issue a document that identifies the bearer of
9 the document as a participant and provide the bearer of the
10 document with access to supplies, devices or services
11 provided by the program;

12 (3) compile data to assist in planning and
13 evaluating efforts to combat overdose mortality and other
14 negative health outcomes associated with drug use; and

15 (4) make an annual report, including
16 legislative recommendations, to the legislative health and
17 human services committee by October 1 each year.

18 B. The department shall appoint an advisory
19 committee to include representation from:

20 (1) the office of the attorney general;

21 (2) the New Mexico state police division of
22 the department of public safety;

23 (3) the infectious disease prevention and
24 control bureau of the department;

25 (4) the director of the epidemiology and

1 response division of the department or the director's
2 designee;

3 (5) a medical officer of the public health
4 division of the department; and

5 (6) other persons or representatives as
6 chosen by the secretary of health to ensure a thorough and
7 unbiased evaluation of the program established under the Harm
8 Reduction Act.

9 C. The advisory committee shall:

10 (1) develop policies and procedures for
11 evaluation of the harm reduction program;

12 (2) develop criteria for data collection and
13 program evaluation; and

14 (3) meet as necessary to monitor and analyze
15 data and produce a report on the harm reduction program's
16 impact on overdose mortality and other negative health
17 outcomes associated with drug use.

18 D. The department may contract with private
19 providers to operate the harm reduction program.

20 E. The department shall promulgate rules as
21 necessary for the administration of the Harm Reduction Act,
22 including developing criteria for the types of supplies or
23 devices provided pursuant to the harm reduction program and
24 standards for distribution of those supplies or devices
25 through that program. The criteria and standards shall be

1 developed to provide supplies and devices in order to reduce:

2 (1) cases of negative health outcomes
3 associated with drug use, such as overdoses or the spread of
4 infectious disease; and

5 (2) harm by promoting reduced use of non-
6 sterile items and improving participant engagement in harm
7 reduction services and prevention education."

8 SECTION 3. Section 24-2C-5 NMSA 1978 (being Laws 1997,
9 Chapter 256, Section 5) is amended to read:

10 "24-2C-5. PROGRAM.--The harm reduction program shall
11 provide participants with:

12 A. sterile hypodermic syringes and needles in
13 exchange for used hypodermic syringes, needles or other
14 objects used to inject controlled substances or controlled
15 substance analogs into the human body;

16 B. other objects used to prepare or consume
17 controlled substances or controlled substance analogs;

18 C. supplies or devices used for testing controlled
19 substances or controlled substance analogs for potentially
20 dangerous adulterants;

21 D. supplies or devices approved by the department
22 for distribution in accordance with rules established
23 pursuant to Subsection E of Section 24-2C-4 NMSA 1978;

24 E. education on the prevention of:

25 (1) the transmission of the human

1 immunodeficiency virus and hepatitis B and C; and

2 (2) drug overdose mortality and other
3 negative health outcomes; and

4 F. referral to substance abuse treatment
5 services."

6 SECTION 4. Section 30-31-25.1 NMSA 1978 (being Laws
7 1981, Chapter 31, Section 2, as amended) is amended to read:

8 "30-31-25.1. POSSESSION, DELIVERY OR MANUFACTURE OF
9 DRUG PARAPHERNALIA PROHIBITED--EXCEPTIONS.--

10 A. It is unlawful for a person to use or possess
11 with intent to use drug paraphernalia to plant, propagate,
12 cultivate, grow, harvest, manufacture, compound, convert,
13 produce, process, prepare, test, analyze, pack, repack,
14 store, contain, conceal, inject, ingest, inhale or otherwise
15 introduce into the human body a controlled substance in
16 violation of the Controlled Substances Act. The provisions
17 of this subsection do not apply to a person who is in
18 possession of:

19 (1) hypodermic syringes or needles for the
20 purpose of participation in or administration of the Harm
21 Reduction Act;

22 (2) supplies or devices obtained pursuant to
23 the Harm Reduction Act in accordance with rules established
24 by the department of health for the harm reduction program;
25 or

1 (3) supplies or devices used for the testing
2 of controlled substances or controlled substance analogs for
3 dangerous adulterants.

4 B. It is unlawful for a person to deliver, possess
5 with intent to deliver or manufacture with the intent to
6 deliver drug paraphernalia with knowledge, or under
7 circumstances where one reasonably should know, that it will
8 be used to plant, propagate, cultivate, grow, harvest,
9 manufacture, compound, convert, produce, process, prepare,
10 test, analyze, pack, repack, store, contain, conceal, inject,
11 ingest, inhale or otherwise introduce into the human body a
12 controlled substance in violation of the Controlled
13 Substances Act. The provisions of this subsection do not
14 apply to:

15 (1) department of health employees or their
16 designees while they are directly and immediately engaged in
17 activities related to the harm reduction program authorized
18 by the Harm Reduction Act; or

19 (2) the sale or distribution of hypodermic
20 syringes and needles by pharmacists licensed pursuant to the
21 Pharmacy Act.

22 C. A person who violates the provisions of
23 Subsection A of this section shall be issued a penalty
24 assessment pursuant to Section 31-19A-1 NMSA 1978 and is
25 subject to a fine of fifty dollars (\$50.00). A person who

1 violates the provisions of Subsection B of this section is
2 guilty of a misdemeanor.

3 D. A person eighteen years of age or over who
4 violates the provisions of Subsection B of this section by
5 delivering drug paraphernalia to a person under eighteen
6 years of age and who is at least three years the person's
7 junior is guilty of a fourth degree felony and shall be
8 sentenced pursuant to the provisions of Section 31-18-15 NMSA
9 1978."

10 SECTION 5. REPEAL.--Sections 24-2C-2 and 24-2C-6 NMSA
11 1978 (being Laws 1997, Chapter 256, Sections 2 and 6) are
12 repealed. _____

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