Introduced by M. of A. ROSENTHAL -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to enacting the safer consumption services act

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The public health law is amended by adding a new article 33-B to read as follows:

ARTICLE 33-B
SAFER CONSUMPTION SERVICES ACT

SECTION 3398. SHORT TITLE.

§ 3398. SHORT TITLE. THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE "SAFER CONSUMPTION SERVICES ACT".

§ 3398-A. DEFINITIONS. AS USED IN THIS ARTICLE:
1. "PROGRAM" MEANS A SAFER CONSUMPTION SERVICES PROGRAM ESTABLISHED PURSUANT TO THIS ARTICLE.
2. "ENTITY" MEANS ANY COMMUNITY BASED ORGANIZATION THAT PROVIDES EDUCATIONAL, HEALTH, HARM REDUCTION, HOUSING, OR SOCIAL SERVICES AND ANY HOSPITAL, MEDICAL CLINIC OR OFFICE, HEALTH CENTER, NURSING CARE FACILITY, MENTAL HEALTH FACILITY, OR OTHER SIMILAR ENTITY THAT PROVIDES MEDICAL CARE.
3. "PARTICIPANT" MEANS AN INDIVIDUAL WHO SEEKS TO UTILIZE, UTILIZES, OR HAS USED A PROGRAM ESTABLISHED PURSUANT TO THIS ARTICLE.

§ 3398-B. PROGRAM APPROVAL. 1. NOTWITHSTANDING ANY OTHER STATUTE, LAW OR RULE TO THE CONTRARY, THE DEPARTMENT OR A LOCAL HEALTH DISTRICT MAY EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted. LBD13094-02-7
APPROVE AN ENTITY TO OPERATE A PROGRAM IN ONE OR MORE JURISDICTIONS UPON
SATISFACTION OF THE REQUIREMENTS SET FORTH IN SUBDIVISION TWO OF THIS
SECTION. THE DEPARTMENT AND LOCAL HEALTH JURISDICTIONS SHALL ESTABLISH
STANDARDS FOR PROGRAM APPROVAL AND TRAINING AND MAY PROMULGATE SUCH
RULES AND REGULATIONS AS ARE NECESSARY TO IMPLEMENT THIS SECTION.

(A) THE DEPARTMENT OR A LOCAL HEALTH DISTRICT SHALL APPROVE OR DENY AN
APPLICATION UNDER THIS SECTION WITHIN FORTY-FIVE DAYS OF THE DAY OF
RECEIPT OF THE APPLICATION AND PROVIDE A WRITTEN EXPLANATION OF SUCH
DETERMINATION.

(B) AN ENTITY MAY MAKE AN APPLICATION UNDER THIS SECTION AT ANY TIME,
REGARDLESS OF PREVIOUS APPLICATIONS.

2. THE DEPARTMENT OR LOCAL HEALTH DISTRICT MAY APPROVE AN ENTITY TO
OPERATE A PROGRAM PURSUANT TO THIS ARTICLE, UPON SUBMISSION OF AN APPLI-
CATION THAT DEMONSTRATES THE ENTITY WILL, AT A MINIMUM:

(A) PROVIDE A HYGIENIC SPACE WHERE PARTICIPANTS MAY CONSUME THEIR
PREOBTAINED DRUGS THAT IS SEPARATE FROM THE SPACE IN WHICH THE PROVIDER
PERFORMS OTHER BUSINESS, IF ANY;

(B) PROVIDE ADEQUATE STAFFING BY HEALTHCARE PROFESSIONALS OR OTHER
TRAINED STAFF;

(C) PROVIDE STERILE INJECTION SUPPLIES, COLLECT USED HYPODERMIC
NEEDLES AND SYRINGES, AND PROVIDE SECURE HYPODERMIC NEEDLE AND SYRINGE
DISPOSAL SERVICES;

(D) PROVIDE EDUCATION ON SAFE CONSUMPTION PRACTICES, PROPER DISPOSAL
OF HYPODERMIC NEEDLES AND SYRINGES, AND OVERDOSE PREVENTION, INCLUDING
WRITTEN INFORMATION IN, AT A MINIMUM, THE FOUR MOST COMMONLY SPOKEN
LANGUAGES IN THE STATE AS DETERMINED BY THE DEPARTMENT OR LOCAL HEALTH
DISTRICT;

(E) ADMINISTER FIRST AID, IF NEEDED, AND MONITOR PARTICIPANTS FOR
POTENTIAL OVERDOSE;

(F) PROVIDE REFERRALS TO ADDICTION TREATMENT, MEDICAL, SOCIAL WELFARE,
AND EMPLOYMENT AND TRAINING SERVICES;

(G) EDUCATE PARTICIPANTS ON THE RISKS OF CONTRACTING HIV AND VIRAL
HEPATITIS AND PROVIDE SEXUAL HEALTH RESOURCES AND SUPPLIES, INCLUDING,
BUT NOT LIMITED TO, MALE AND FEMALE CONDOMS;

(H) PROVIDE ACCESS TO NALOXONE OR REFERRALS TO OBTAIN NALOXONE FOR
PARTICIPANTS;

(I) PROVIDE REASONABLE AND ADEQUATE SECURITY OF THE PROGRAM SITE AND
EQUIPMENT;

(J) ENSURE CONFIDENTIALITY OF PROGRAM PARTICIPANTS BY USING AN ANONY-
MOUS UNIQUE IDENTIFIER;

(K) TRAIN STAFF MEMBERS TO DELIVER SERVICES OFFERED BY THE PROGRAM OR
ATTEND TRAININGS PROVIDED BY THE DEPARTMENT OR LOCAL HEALTH JURISDICTION
IF REQUIRED; AND

(L) ESTABLISH OPERATING PROCEDURES FOR THE PROGRAM AS WELL AS ELIGI-
BILITY CRITERIA FOR PROGRAM PARTICIPANTS IF NOT PREDETERMINED BY THE
DEPARTMENT OR LOCAL HEALTH DISTRICT.

§ 3398-C. DESIGNATION. A DEPARTMENT APPROVED PROGRAM SHALL ALSO BE
DESIGNATED AS AN AUTHORIZED SYRINGE EXCHANGE PROGRAM IN ACCORDANCE WITH
THE REGULATIONS OF THE DEPARTMENT AS SET FORTH IN 10 NYCRR 80.135 AND AS
A REGISTERED PROVIDER OF AN OPIOID OVERDOSE PREVENTION PROGRAM IN
ACCORDANCE WITH THE REGULATIONS OF THE DEPARTMENT AS SET FORTH IN 10
NYCRR 80.138. A SAFER CONSUMPTION PROGRAM APPROVED BY A LOCAL HEALTH
DISTRICT SHALL APPLY TO BE AN AUTHORIZED SYRINGE EXCHANGE PROGRAM AND
REGISTERED PROVIDER OF AN OPIOID OVERDOSE PREVENTION PROGRAM.

§ 3398-D. REPORTING. AN ENTITY OPERATING A SAFER CONSUMPTION PROGRAM
UNDER THIS SECTION SHALL PROVIDE AN ANNUAL REPORT TO THE DEPARTMENT OR
LOCAL HEALTH DISTRICT THAT APPROVED IT FOR OPERATION AT A DATE SET BY
THE DEPARTMENT OR LOCAL HEALTH DISTRICT THAT SHALL INCLUDE:
  1. THE NUMBER OF PROGRAM PARTICIPANTS;
  2. AGGREGATE INFORMATION REGARDING THE CHARACTERISTICS OF PROGRAM
     PARTICIPANTS;
  3. THE NUMBER OF HYPODERMIC NEEDLES AND SYRINGES DISTRIBUTED FOR USE
     ON-SITE;
  4. THE NUMBER OF OVERDOSES EXPERIENCED AND THE NUMBER OF OVERDOSES
     REVERSED ON-SITE; AND
  5. THE NUMBER OF INDIVIDUALS DIRECTLY AND FORMALLY REFERRED TO OTHER
     SERVICES AND THE TYPE OF SERVICE.
§ 3398-E. IMMUNITY PROVIDED. NOTWITHSTANDING ANY OTHER STATUTE, LAW OR
RULE TO THE CONTRARY, THE FOLLOWING PERSONS SHALL NOT BE ARRESTED,
CHARGED, OR PROSECUTED FOR ANY CRIMINAL OFFENSE OR BE SUBJECT TO ANY
CIVIL OR ADMINISTRATIVE PENALTY, INCLUDING SEIZURE OR FORFEITURE OF
ASSETS OR REAL PROPERTY OR DISCIPLINARY ACTION BY A PROFESSIONAL LICENS-
ING BOARD, OR BE DENIED ANY RIGHT OR PRIVILEGE, SOLELY FOR PARTICIPATION
OR INVOLVEMENT IN A SAFER CONSUMPTION PROGRAM APPROVED BY THE DEPARTMENT
OR LOCAL HEALTH DISTRICTS PURSUANT TO THIS ARTICLE:
  1. A PARTICIPANT;
  2. A STAFF MEMBER OR ADMINISTRATOR OF A PROGRAM, INCLUDING A HEALTH-
     CARE PROFESSIONAL, MANAGER, EMPLOYEE, OR VOLUNTEER; OR
  3. A PROPERTY OWNER WHO OWNS REAL PROPERTY AT WHICH A PROGRAM IS
     LOCATED AND OPERATES.
§ 3398-F. LIMITATIONS ON IMMUNITY. NOTWITHSTANDING THE PROVISIONS OF
SECTION THIRTY-THREE HUNDRED NINETY-EIGHT-E OF THIS ARTICLE, A PROPERTY
OWNER, STAFF MEMBER, MANAGER, EMPLOYEE, VOLUNTEER, OR INDIVIDUAL UTILIZ-
ING A SAFER CONSUMPTION SERVICES PROGRAM IS NOT IMMUNE FROM CRIMINAL
PROSECUTION FOR ANY ACTIVITIES NOT PERMITTED OR APPROVED PURSUANT TO
THIS ARTICLE.
§ 2. This act shall take effect immediately.