



Interoffice Memorandum

AGENDA ITEM

September 9, 2020

TO: Mayor Jerry L. Demings
-AND-
Board of County Commissioners

FROM: Yolanda G. Martinez, EdPhD., PhD., Director *YGM*
Health Services Department

SUBJECT: Infectious Disease Elimination Program
Consent Agenda – September 22, 2020

On May 19, 2020, the Board passed Ordinance No. 2020-12 authorizing the implementation of a Needle Exchange Program(s) in Orange County. The Ordinance is entitled "Infectious Disease Elimination Program." The intent of the Ordinance is to allow for the establishment of a needle exchange program as a way to prevent the transmission of infectious diseases such as HIV, Hepatitis B, Hepatitis C and other blood-borne diseases among intravenous drug users and their sexual partners and offspring.

We are requesting approval and execution of the Agreement with the Florida Department of Health in Orange County to establish the parties' duties related to the County's authorization and operation of a sterile needle and syringe exchange program ("Exchange Program") in accordance with section 381.0038(4), Florida Statutes. This Exchange Program will allow the free exchange of clean, unused needles, and hypodermic syringes for used needles to prevent the transmission of HIV, AIDS, viral hepatitis, or other blood-borne diseases. There is no cost to the county.

ACTION REQUESTED: Approval and execution of Letter of Agreement between State of Florida Department of Health and Orange County, Florida to establish the parties' duties related to the County's authorization and operation of a sterile needle and syringe exchange program in accordance with section 381.0038(4), Florida Statutes. **(Health Services Department)**

Attachments

C: Byron W. Brooks, AICP, County Administrator
Danny Banks, Deputy County Administrator
Jeffrey J. Newton, County Attorney
Dylan T. Schott, Assistant County Attorney

APPROVED BY ORANGE
COUNTY BOARD OF COUNTY
COMMISSIONERS

BCC Mtg. Date: September 22, 2020

**LETTER OF AGREEMENT
BETWEEN
STATE OF FLORIDA DEPARTMENT OF HEALTH
AND
ORANGE COUNTY, FLORIDA**

THIS LETTER OF AGREEMENT ("Agreement") is entered into by and between the State of Florida, Department of Health ("Department"), located at 2585 Merchants Row Boulevard, Tallahassee, Florida, and Orange County, Florida (the "County"), a political subdivision of the State of Florida, located at 201 South Rosalind Avenue, Orlando, Florida 32801, jointly referred to as the "parties."

- A. Scope of Agreement:** The purpose of this Agreement is to establish the parties' duties related to the County's authorization and operation of a sterile needle and syringe exchange program ("Exchange Program") in accordance with section 381.0038(4), Florida Statutes. This Exchange Program will allow the free exchange of clean, unused needles and hypodermic syringes for used needles to prevent the transmission of HIV, AIDS, viral hepatitis, or other blood-borne diseases.
- B. Term:** This Agreement begins upon the date of last signature and continues until either party terminates or until the statute and/or ordinance authorizing the Exchange Program expires or is revoked, whichever occurs first.
- C. Legal Authority:** Section 381.0038(4), Florida Statutes.
- D. Parties' Responsibilities**
1. The County must perform the following:
 - a. Authorize the Exchange Program through enactment of a county ordinance. Provide a copy of the ordinance to the Department upon request.
 - b. Execute a contract with one of the following entities to operate the Exchange Program ("Exchange Program Operator") and provide a copy of the executed contract to the Department within 45 days of its execution date:
 - (1) A hospital licensed under chapter 395, Florida Statutes;
 - (2) A health care clinic licensed under Part X of chapter 400, Florida Statutes;
 - (3) A medical school in the state of Florida accredited by the Liaison Committee on Medical Education or the Commission on Osteopathic College Accreditation;
 - (4) A licensed addictions receiving facility as defined in section 397.311(26)(a)1, Florida Statutes; or

- (5) A section 501(c)(3) HIV/AIDS service organization.
- c. Enlist the local County Health Department (“CHD”) to provide ongoing advice, consultation, and recommendations to the County on public health issues related to operation of the Exchange Program.
 - d. Have the Exchange Program Operator implement the Exchange Program in accordance with the county ordinance, which is incorporated by reference, and section 381.0038(4)(b), Florida Statutes, as follows:
 - (1) Develop an oversight and accountability system to ensure the Exchange Program complies with the State of Florida’s statutory requirements and the terms of this Agreement. The oversight and accountability system must be approved by the County before commencing operations of the Exchange Program. Ensure the oversight and accountability system includes, at a minimum, the following:
 - (a) Includes measurable objectives for meeting the goals of the Exchange Program and track the progress in achieving those objectives.
 - (b) Requires the Exchange Program Operator to routinely report to the County on the progress of the Exchange Program in achieving its objectives and goals.
 - (c) Incorporates mechanisms to track the Exchange Program Operator’s compliance or noncompliance with their contractual obligations and to apply consequences for noncompliance.
 - (d) Includes the ability to monitor the Exchange Program’s adherence to sections 381.0031 and 381.0038, Florida Statutes, and Rule 64D-3.029, Florida Administrative Code.
 - (2) Provide for maximum security of sites where needles and syringes are exchanged and of any equipment used under the Exchange Program, including, at a minimum, an accounting of the number of needles and syringes in use, needles and syringes in storage, safe disposal of returned needles, and any other measures that may be required to control the use and dispersal of sterile needles and syringes.
 - (3) Operate a one-to-one exchange allowing an Exchange Program participant to receive one sterile needle and syringe unit in exchange for each used one.
 - (4) Make available educational materials regarding the transmission of HIV, viral hepatitis, and other blood-borne diseases. Ensure the Exchange

Program Operator offers materials to Exchange Program participants whenever needles or syringes are exchanged.

- (5) Provide onsite counseling or written referrals for drug abuse prevention, education, and treatment, and provide onsite HIV and viral hepatitis screening or give written referrals to Exchange Program participants for screenings. All referrals must include the type of service being referred, the name of the entity performing the referred service, and their business hours, address, and contact information. Keep copies of the referrals throughout the Agreement term. Adhere to the following screening and referral requirements:
 - (a) If the Exchange Program offers viral hepatitis or other blood-borne disease screening services, the Exchange Program must develop mechanisms for compliance with the reporting requirement of section 381.0031, Florida Statutes, and Rule 64D-3.029, Florida Administrative Code, in conjunction with the prohibition of collection of personal identifying information associated with viral hepatitis and other blood-borne disease testing in section 381.0038(4)(b)7., Florida Statutes.
 - (b) If screening services are offered solely by referral, they must be made available to Exchange Program participants within 72 hours, unless an extended timeframe is approved by the county commission of a rural county in accordance with section 381.0038(4)(b)5., Florida Statutes.
 - (c) In the event of reactive results, the Exchange Program must refer Exchange Program participants to the local CHD or other organizations able to provide follow-up testing and free or discounted on-site care if those services are not available through the Exchange Program.
 - (d) If the Exchange Program offers anonymous HIV screening on site, the Exchange Program must register with the Department as an anonymous HIV testing site and provide referrals for medical care and follow-up for persons testing positive.
- (6) Provide kits containing an emergency opioid antagonist, as defined in section 381.887, Florida Statutes, or provide referrals to a program that can provide such kits. All referrals must include the name of the entity performing the referred service, their business hours, address, and contact information, with copies of referrals maintained by the Exchange Operator throughout the Agreement term.
- (7) Collect the following Exchange Program data for annual reporting in accordance with section 381.0038(4)(b)7., Florida Statutes, without

collecting any personal identifying information from Exchange Program participants for any purpose:

- (a) Number of individual participants served;
 - (b) Number of used needles and syringes received, and the number of clean, unused needles and syringes distributed to exchange program participants;
 - (c) Demographic profiles of the participants served;
 - (d) Number of participants entering drug counseling or treatment;
 - (e) Number of participants receiving testing for HIV;
 - (f) Number of participants receiving testing for other blood-borne diseases;
 - (g) Number of participants receiving referrals for HIV testing;
 - (h) Number of participants receiving referrals for viral hepatitis testing;
 - (i) Number of participants receiving referrals for other blood-borne diseases testing; and
 - (j) Any other data that may be required under Department rule.
- (8) Prepare an annual Exchange Program Data Report (using the information collected in Task 1.d.(7), above) and submit it to the Department and the County by August 1 annually.
2. The Department, through its CHDs, will perform the following:
- a. Provide ongoing advice, consultation, and recommendations on public health issues related to operation of the Exchange Program as requested by County.
 - b. Refer the County to third-party organizations for technical assistance related to operation of the Exchange Program as needed.

E. Special Provisions

1. Inspector General Audit Cooperation: The County understands its duty, pursuant to section 20.055(5), Florida Statutes, to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing.
2. Notice: Any notices given by either party to the other party under this Agreement must be in writing and sent either: by overnight courier, with a verified receipt; or by

registered or certified U.S. Mail, postage prepaid. Either parties' listed point of contact may be changed by notifying the other party a minimum of one week prior to such change.

a. Department: Mara Michniewicz, MPH
Prevention Program Manager
HIV/AIDS Section
Bureau of Communicable Diseases, Division of Disease Control
Florida Department of Health
4052 Bald Cypress Way, Bin A-09
Tallahassee, Florida 32399

b. County: Orange County Health Services Department
Attn: Director
2002A East Michigan Street
Orlando, Florida 32806

AND

Orange County Administrator
Administration Building, 5th Floor
201 South Rosalind Avenue
Orlando, Florida 32801

3. Costs: Both parties will perform their respective obligations set forth in this Agreement at no cost to each other.
4. Exchange Program Funding: Pursuant to section 381.0038(4)(f), Florida Statutes, state, county, or municipal funds cannot be used to operate the Exchange Program.
5. Termination: This Agreement may be terminated by either party upon 45 calendar days' written notice, without cause, unless a lesser time is mutually agreed upon by the parties. Termination may not occur where prohibited by state or federal law.
6. Modification: This Agreement may only be amended or otherwise modified in writing upon agreement of the parties.
7. Waiver: The failure of either party, in any respect, to exercise, or delay in exercising any right, power, or privilege provided for hereunder will not be deemed a waiver thereof; nor will any single or partial exercise of any such right, power or privilege preclude any other, or further exercise thereof, or the exercise of any other right, power, or privilege under this agreement. No party will be deemed to have waived a right, power, or privilege provided for hereunder, unless such waiver is made in writing, and signed by the party against whom such waiver is sought.
8. Confidentiality: Where applicable, both parties will maintain confidentiality of all protected health information, including client records, related to the services provided

pursuant to this agreement, in compliance with all applicable state and federal laws, rules and regulations including, but not limited to, sections 119.0712, 381.003, 381.0031, 381.004, 384.29, 392.65 and 456.057, Florida Statutes, and the rules adopted thereunder. The parties agree to comply with the Health Insurance Portability and Accountability Act (HIPAA) and any current and future regulations promulgated thereunder, including 45 C.F.R. Parts 160, 162, and 164.

9. Public Records:

If the County has questions regarding the application of Chapter 119, Florida Statutes, to their duty to provide public records relating to this contract, contact the custodian of public records at (850) 245 - 4005, PublicRecordsRequest@flhealth.gov or 4052 Bald Cypress Way, Bin A02, Tallahassee, FL 32399.

IF THE DEPARTMENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, AS TO THE DEPARTMENT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, THE DEPARTMENT SHALL CONTACT THE PROCUREMENT PUBLIC RECORDS LIAISON AT 400 EAST SOUTH STREET, 2ND FLOOR, ORLANDO, FLORIDA 32801, PROCUREMENTRECORDS@OCFL.NET, (407) 836-5897.

10. Entire Agreement: This Agreement embodies the entire agreement and understanding between the parties, on the subject hereof.

IN WITNESS THEREOF, the parties agree to the terms and conditions of this Agreement and have duly authorized their respective representatives to sign it on the dates specified below.

STATE OF FLORIDA
DEPARTMENT OF HEALTH

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

SIGNED BY: Shamari Roberson
DocuSigned by: EAA2845C1DA746F

SIGNED BY: Jerry L. Demings

NAME: Shamari Roberson, DrPH, MPH

for NAME: Jerry L. Demings

TITLE: Deputy Secretary for Health

TITLE: Orange County Mayor

DATE: 10/19/2020

DATE: SEP 22 2020

