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# Symposium: Legal and Ethical Issues of Physician Prescription and Pharmacy Sale of Syringes to Patients who Inject Illegal Drugs--Introduction: Ask, Tell, Help

Scott Burris

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# SYMPOSIUM

## LEGAL AND ETHICAL ISSUES OF PHYSICIAN PRESCRIPTION AND PHARMACY SALE OF SYRINGES TO PATIENTS WHO INJECT ILLEGAL DRUGS

### INTRODUCTION: ASK, TELL, HELP

**TO STATE THE OBVIOUS**, our physicians matter to our health. They diagnose and treat our ills, and can help us identify and change behaviors that put our health at risk. Doctors can't make us eat better or smoke less, but study after study shows that they can help patients live healthier just by showing interest and offering advice and information. At a social level, physicians can play an important role as patient advocates for better health policies.

Drug users often have doctors or see doctors, and need their help. Drug use itself is a significant health issue. Although some drug users can manage even long-term use of powerful drugs like heroin and cocaine, for many others drug use is a destructive, chronic illness. All injection drug users face the risk of HIV, hepatitis, serious bacterial infections, and overdose. The medical needs of people who use drugs have been poorly served in a "war on drugs" focused on punishment.

Too often, drug users don't get the help they need from their doctors. Between the stigma of drug use and the social and legal complexities of our national response to the phenomenon, drug users and their doctors have tacitly applied a "Don't Ask, Don't Tell" policy in the medical encounter. As a result, drug-injecting patients are not necessarily identified as at risk for injection-related diseases, nor do physicians use their influence to

help patients take better care of themselves by getting treatment or using drugs more safely.

The articles in this symposium address physician prescription of sterile needles and syringes as a means of improving the health of drug users and others whose health may indirectly be placed at risk by injection-related disease. Burris, Ng, and Lurie review state syringe and medical and pharmacy practice laws and conclude that it is legal in most states for physicians to prescribe syringes, and for pharmacists to fill the prescriptions. Abrahamson finds no legal impediments in federal law, while Mehlman concludes that the intervention would raise no unusual malpractice liability. Lazzarini's ethical analysis likewise comes to the conclusion that ethics support the practice.

Prescribing needles can help overcome the most immediate source of disease risk for injection drug users: the reuse and sharing of needles arising from the users' inability to purchase new, sterile ones. This is important, and may complement needle exchange and deregulated pharmacy sales as a means of getting needles to those who need them to avoid transmitting or acquiring HIV or hepatitis. But as Rich and colleagues recount in their review of the nation's first syringe prescribing clinic, the most important result of the intervention may be the profound change in the doctor-patient relationship it creates. Dr. Rich found that having drug use out in the open, as it necessarily must be when the physician is offering to prescribe syringes, put an end to "Don't Ask, Don't Tell" in his clinic. Patients who had concealed their drug use for years now sought his advice, received the care they needed, and assessed their need for drug treatment. Formal evaluation will eventually provide some objective data on whether eliminating stigma and dealing candidly with drug use lead to better health outcomes, but Dr. Rich's account leaves no doubt that offering to prescribe syringes changed his relationships with his patients for the better.

If prescribing syringes makes for a better physician-patient relationship, it must be because the physician changes at least as much as the drug user. Physicians generally are uncomfortable about discussing drug use with patients, and unsure about how to intervene when they detect it. These factors can be overcome with reflection and a little study. The idea of prescribing syringes is in this light less an end than a means to encourage physicians to take more responsibility for addressing drug abuse among their patients.

And not just in their offices. The nation's drug policies are sadly out of tune with the needs of public health and people sick with drug addiction. Physicians have played a role in articulating a more therapeutic approach to drug use, but more physician voices are needed. Writing a needle prescription for a patient who injects drugs and cannot or will not enter drug treatment is a small but decisive step on the journey to a world in which people with drug problems are cured, not incarcerated.

The syringe prescribing project was a group effort, and thanks are owed to many. The authors acknowledge funding and research support in their various articles. As a group, we are grateful to Dean Robert Reinstein, Deborah Feldman, Dorothy Lee, and the faculty and staff of Temple University's Beasley School of Law, who supported the project in ways too numerous to enumerate. We thank Professor Maxwell Mehlman and the staff of this journal for their unstinting efforts to bring these articles to press in a timely fashion. Jane Silver of the American Foundation for AIDS Research, and the AIDS Coordinating Committee of the American Bar Association, under the chairmanship of Bob Stein, offered very helpful feedback on the project at various stages. Dr. Steve Jones and Jennifer Taussig at the Centers for Disease Control and Prevention were of enormous help to lawyers trying to understand the complexities of the public health science underlying the analysis, as were Kim Blankenship, Sarah Bray, Robert Heimer, and Kaveh Khoshnood at the Center for Interdisciplinary Research on AIDS at Yale. Finally, the project could not have been undertaken without a grant from the Substance Abuse Policy Research Program of the Robert Wood Johnson Foundation. All these people and organizations have helped us frame and answer the medical and legal questions surrounding syringe prescription, but the responsibility for the conclusions expressed in the following articles is entirely the authors', and should not be attributed to any of those upon whose assistance we drew.

*Scott Burris*<sup>†</sup>

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<sup>†</sup> Professor, Beasley School of Law; Senior Associate, Johns Hopkins School of Public Health and Associate Director, Center for Law and the Public's Health.

