COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

BARNSTABLE, SS No. SJC-12224

AIDS SUPPORT GROUP OF CAPE COD, INC.,
Plaintiff-Appellant

v.

TOWN OF BARNSTABLE, BOARD OF HEALTH OF THE TOWN OF BARSTABLE, and THOMAS MCKEAN, in his official Capacity as Director of Public Health of the Town of Barnstable,
Defendants-Appellees

On a Report from the Superior Court

BRIEF OF AMICI CURIAE MASSACHUSETTS INFECTIOUS DISEASES SOCIETY; MASSACHUSETTS PUBLIC HEALTH ASSOCIATION; ASSOCIATION OF BEHAVIORAL HEALTH; HARVARD PILGRIM HEALTH CARE; BLUE CROSS AND BLUE SHIELD OF MASSACHUSETTS; BAYSTATE HEALTH, INC.; NATIONAL ALLIANCE OF STATE AND TERRITORIAL AIDS DIRECTORS; PARTNERS HEALTHCARE SYSTEM, INC.; UMASS MEMORIAL HEALTH CARE, INC.; GREATER LAWRENCE FAMILY HEALTH CENTER; LYNN COMMUNITY HEALTH CENTER; OUTER CAPE HEALTH SERVICES, INC.; DUFFY HEALTH CENTER; FENWAY HEALTH; MANET COMMUNITY HEALTH CENTER, INC.; MASSACHUSETTS ASSOCIATION OF ALCOHOLISM AND DRUG ABUSE COUNSELORS; MASSACHUSETTS ASSOCIATION OF COMMUNITY HEALTH WORKERS; TAPESTRY HEALTH SYSTEMS, INC.; VICTORY PROGRAMS; MULTICULTURAL AIDS COALITION; HOMELESS NOT HOPELESS; AIDS PROJECT WORCESTER, INC.; MASSEQUALITY ORG, THE CAMPAIGN FOR EQUALITY; NEW ENGLAND AIDS EDUCATION AND TRAINING CENTER; MASSACHUSETTS CHAPTER OF THE NATIONAL ASSOCIATION OF SOCIAL WORKERS; THE DIMOCK CENTER; JUSTICE RESOURCE INSTITUTE; JOHN SNOW, INC.; NORTH SHORE HEALTH PROJECT; COMMUNITY RESEARCH INITIATIVE OF NEW ENGLAND; CENTER FOR HUMAN DEVELOPMENT, INC.

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STATEMENT OF THE ISSUE

Whether Massachusetts law permits the non-sale distribution of hypodermic needles and syringes by any private individual or entity or do the provisions set forth in G. L. c. 94C §§ 27, 27A and/or G. L. c. 111 § 215 limit non-sale distribution of hypodermic needles and syringes to locally approved programs implemented by the Department of Public Health.

INTEREST OF AMICI CURIAE

Amici curiae include the state chapter of the leading organization of infectious disease medical specialists in the country, the Massachusetts Infectious Disease Society; the largest healthcare institutions and hospitals in Massachusetts including UMass Memorial Health Care, Inc., Partners Healthcare System, Inc., and Baystate Health, Inc.; the state's largest health insurers who understand all too well the economic impact of lack of access to clean needles including Harvard Pilgrim Health Care and Blue Cross and Blue Shield of Massachusetts; organizations that have first-hand experience working with people who inject drugs and see the harm of addiction and the risks of disease transmission such as Tapestry Health Systems, Duffy Health Center, and Victory Programs; medical services providers with first-hand experience treating people who inject drugs, HIV, and HCV such as the Greater Lawrence Family Health Center, Tapestry Health Systems, The Dimock Center, Lynn Community Health Center, Outer Cape Health Services, Inc., Fenway Health, and the Manet Community Health Center; professional organizations representing and educating public health officials and workers with first-hand

knowledge of HIV and HCV such as the National Alliance of State and Territorial AIDS Directors, the Massachusetts Association of Alcoholism and Drug Abuse Counselors, Massachusetts Association of Community Health Workers, the New England AIDS Education and Training Center, the Massachusetts Chapter of the National Association of Social Workers, and the Association of Behavioral Health; large coalitions of human service providers including Victory Programs, Homeless Not Hopeless, AIDS Project Worcester, North Shore Health Project, the Community Research Initiative of New England, Justice Resource Institute, and the Center for Human Development, Inc.; and numerous advocacy and education groups across the state including MassEquality.org, the Multicultural AIDS Coalition, Massachusetts Public Health Association, and John Snow, Inc.

Amici have extensive experience with the principal infectious diseases most closely associated with intravenous drug use, human immunodeficiency virus ("HIV") and hepatitis C virus ("HCV"), and with policies, prevention, and wellness services necessitated by these devastating viruses. Consequently, *Amici* collectively have a unique and

comprehensive understanding of the public health and policy implications of precluding private individuals and entities from the free distribution of hypodermic needles and syringes.

Amici urge the Court not to limit the availability of needle distribution programs of the kind at issue in this case, and submit this brief (1) to bring to the Court's attention the body of scientific knowledge relevant to the question reported in this case, (2) to provide information relating to the economic and human costs of addiction and the diseases transmitted through intravenous drug use, in particular HIV and HCV, and (3) to inform the Court that needle access efforts are a proven and effective method to reduce the number of publicly discarded needles.

A complete description of each *amici* is contained in the addendum to this brief.

STATEMENT OF THE CASE

Amici Curiae rely on and incorporate herein the Statement of the Case contained in the Brief of the Plaintiff-Appellant.

STATEMENT OF THE FACTS

Amici Curiae rely on and incorporate herein the Statement of the Facts contained in the Brief of the Plaintiff-Appellant.

SUMMARY OF THE ARGUMENT

The opioid epidemic in Massachusetts poses urgent risks to the public health and welfare. Chief among these risks is the transmission of blood-borne infections through the use of injection drugs. Infectious diseases transmitted through dirty needles by persons who inject drugs ("PWID")[1] include two life-threatening viruses: HIV and HCV.[2] And, as 2016 research by the Centers for Disease Control and Prevention explained just last month,

> recent trends suggest [increased] heroin use and injection drug use ... , coupled with high rates of syringe sharing, might challenge the decades of progress in HIV prevention among PWID.[3]

[1] The term "people who inject drugs" is now the preferred nomenclature over the previously used term "injection drug users." For consistency, the term "people who inject drugs" is used throughout this brief, notwithstanding use of the previous term in quoted material.

[2] Human immunodeficiency virus ("HIV") and hepatitis C virus ("HCV").

[3] Wejnert, et al., Vital Signs: Trends in HIV Diagnoses, Risk Behaviors, and Prevention Among Persons Who Inject Drugs – United States, 65 Morbidity & Mortality Weekly Rpt. 1336 (2016).

Ensuring that Massachusetts sustains these "decades of progress" in preventing the spread of infectious disease through needle sharing is precisely what the Legislature intended in 2006 when it amended G. L. c. 94C §§ 27, 27A and/or G. L. c. 111 § 215 to remove all restrictions on the free distribution of hypodermic needles and syringes by private individuals and entities.

Indeed, as these changes to the law acknowledged, ready access to clean needles, ideally coupled with risk education, is a proven and effective way to prevent these serious and costly infectious diseases. There can be no dispute that both HIV and HCV each have a profound economic and human impact on those infected, their families, and their communities. Methods of combatting these deadly impacts of the opioid epidemic include needle access efforts like those undertaken by the AIDS Support Group of Cape Cod ("ASGCC") in Hyannis, MA. Such needle access efforts[4] have been shown to, among other things, (1) prevent blood-borne infection through the distribution of clean needles (2) improve the rates of proper disposal

[4] Such efforts are often described in the relevant scientific data and by commentators as "needle access programs" and are also referred to as syringe services programs, syringe exchange programs, needle exchange programs, and needle-syringe programs.

used needles, including by providing biohazard sharps containers, (3) save lives through the distribution of Naloxone (a/k/a Narcan), the drug that can reverse opioid overdose, (4) provide a point of access to other health services and health education programs, and (5) provide education and therapy that orients PWID to detox, treatment, and recovery. These efforts, beyond their direct benefit to the individual PWID they serve, also benefit the general public health and welfare in tangible and demonstrable ways.

Despite unfortunate public misconception, the data demonstrating the public health benefits of greater access to clean needles are neither new nor controversial. Most recently, in a report released on November 17, 2016, the United States Surgeon General emphasized that the effectiveness of efforts to increase clean needle access in reducing and preventing risk to PWID is supported by known and "substantial evidence." Indeed, the relevant and overwhelming data demonstrate that efforts like those undertaken by ASGCC do not undermine, but rather significantly benefit, the public health and welfare. These benefits include reducing blood-borne infectious disease transmission, reducing economic and human

costs of injection drug addiction and associated blood-borne diseases, and reducing the number of publicly discarded needles.

In recognition of the significant public health benefits of greater public access to clean needles provided by agencies like ASGCC, particularly in the context of the opioid crisis currently facing Massachusetts communities,[5] this Court should not constrain the availability of clean needles in contravention of the Legislature's intent. Instead, this Court should conclude that there is no restriction in the law of Massachusetts on the non-sale distribution of hypodermic needles and syringes by any private individual or entity.

ARGUMENT

I. ENSURING READY ACCESS TO CLEAN NEEDLES IS A CRITICAL PUBLIC HEALTH PRIORITY TO PREVENT THE TRANSMISSION OF SERIOUS BLOOD-BORNE INFECTIONS.

A. The Public Health Burdens of HIV and HCV Are Substantial.

[5] Massachusetts Attorney General Maura Healy stated earlier this year that "Massachusetts is the epicenter for the heroin [and] fentanyl trade; from Lawrence, it's being trafficked and sold all over the New England states." Bihari, Dr. Michael, Risky Business: Fentanyl Making the News Locally and Globally, The Falmouth Enterprise (April 15, 2016), http://www.capenews.net/falmouth/columns/risky-business-fentanyl-making-the-news-locally-and-globally/article_0b8414e5-207d-53db-abba-0887e4f1e32f.html.

HIV, the related acquired immune deficiency syndrome ("AIDS"), and HCV are each major contributors to disease burden in the United States. The spread of these diseases is significantly associated with the use of injection drugs and the sharing of needles and other injection equipment among PWID.

Since its first identification in the United States in 1981, HIV/AIDS has exacted an enormous toll on the public health. Thirty-five years later, there remains no cure for the disease and, despite massive public health efforts, new infections continue. The Centers for Disease Control and Prevention ("CDC") estimates that, at the end of 2012, 1.2 million adults and adolescents in the United States were infected with HIV.[6] In Massachusetts, statistics from the Department of Public Health ("DPH") demonstrate that there are between 22,500 and 24,500 individuals currently living with HIV in the Commonwealth.[7] Though sexual transmission largely continues to drive HIV infection rates, in recent years, approximately 9% of

[6] Ctrs. For Disease Control & Prevention, HIV in the United States: At a Glance, http://www.cdc.gov/hiv/statistics/overview/ataglance.html.
[7] Mass. Dep't of Pub. Health, Massachusetts HIV/AIDS Data Fact Sheet, http://www.mass.gov/eohhs/docs/dph/aids/2016-profiles/epidemic-glance.pdf.

newly diagnosed HIV infections in the United States have been among PWID.[8]

While HCV is not as well known to the public as HIV/AIDS, it infects more Americans than HIV/AIDS. Like HIV/AIDS, HCV can be debilitating and even fatal. An estimated 3.5 million individuals are infected with HCV in the United States.[9] From 2010-2013, the number of new HCV infections increased by 150% with the largest increases occurring among young people.[10] In Massachusetts, data collected from 2002-2009 showed an overall decrease in new HCV infections, but an increase in new infections among 15-24 year olds, with infection rates in this group nearly doubling. Injection drug use was the single most common risk factor identified for new HCV cases in the Commonwealth.[11] The researchers also found that during this period of HCV increase in young adults, Massachusetts "experienced a concomitant increase in heroin use among adolescents

[8] Wejnert, et al., Vital Signs: Trends in HIV Diagnoses, Risk Behaviors, and Prevention Among Persons Who Inject Drugs – United States, 65 Morbidity & Mortality Weekly Rep. 1336 (2016).
[9] Ctrs. For Dieases Control & Prevention, Viral Hepatitis Surveillance United States, 2014, https://www.cdc.gov/hepatitis/statistics/2014surveillance/pdfs/2014hepsurveillancerpt.pdf.
[10] Peters et al., HIV Infection Linked to Injection Use of Oxymorphone in Indiana, 2014-2015, 375 New Eng. J. Med. 229, 230 (2016).
[11] Ctrs. for Disease Control & Prevention, Hepatitis C Virus Infection Among Adolescents and Young Adults—Massachusetts 2002-2009, https://www.cdc.gov/mmwr/preview/mmwrhtml/mm6017a2.htm.

and young adults."[12] Further, the researchers hypothesized that although there had not been similar increases in HIV infection in the young adult population, "increases in reports of HCV infection among injection drug users might be a harbinger of increases in [injection drug use]-associated HIV."[13] More recent data also demonstrate a continued increase in HCV cases in the Commonwealth among young people.[14]

B. Disease Transmission and Course.

Because both HIV and HCV are blood-borne viruses, both can be transmitted when PWID share needles and other injection equipment with infected persons. Each disease causes chronic, long-term health effects that are exceedingly expensive to treat.

HIV/AIDS, which attacks the body's immune system, is incurable. Though numerous pharmaceutical breakthroughs for controlling the disease, including antiretroviral therapy, have been made in the past two decades, no cure has been found. Slowing the disease's progression requires a carefully tailored daily cocktail of drugs, many of which come with

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[12] Id.
[13] Id.
[14] Mass. Dep't of Pub. Health, Disease Status Report, Hepatitis C, http://www.mass.gov/eohhs/docs/dph/cdc/reporting/disease-status-report-hepatitis-c.pdf.

significant side effects, like compromised organ function, nerve damage, and an increased risk of heart disease.

HCV is primarily spread through contact with the blood of an infected person, and sharing needles and injection equipment is the primary means of disease transmission. HCV is one of three types of viral hepatitis, a disease characterized by inflammation of the liver. Unlike hepatitis A and hepatitis B, there is no vaccine for HCV. HCV takes an enormous toll on individuals who contract the disease. For every 100 persons who are infected with HCV, 60-70 will develop chronic liver disease, 5-20 will develop cirrhosis, and 1-5 will die from the consequences of chronic infection.[15] Because of the permanent liver damage the disease causes, HCV infection is now the leading cause for liver transplants in the United States.[16]

C. Injection Drug Use Is Closely Linked to HIV and HCV Transmission.

The spread of HCV is significantly associated with injection drug use. In fact,

> [t]he most recent surveys of active IDUs [injection drug users] indicate that

[15] Ctrs. for Disease Control & Prevention, Hepatitis C FAQs for Health Professionals, http://www.cdc.gov/hepatitis/hcv/hcvfaq.htm.
[16] Id.

> approximately one third of young (aged 18–30 years) IDUs are HCV-infected. Older and former IDUs typically have a much higher prevalence (approximately 70%–90%) of HCV infection, reflecting the increased risk of continued injection drug use.[17]

Annualized incidence (the rate of new infections) of HCV among young adult PWID is extremely high, and is estimated to be between 8% and 25%.[18] The increase in HCV infections in young PWID has been linked to the current epidemic of prescription opioid abuse.[19] Individuals who abuse prescription opioids have been shown to transition from oral use to injection use, and also to transition from prescription opioids to heroin. Young people, with typically higher rates of risky injection practices, are particularly vulnerable to HCV infection.[20]

HIV transmission is also directly connected with injection drug use. A tragic recent case from rural Indiana demonstrates this connection. In January 2015, Scott County, Indiana saw an enormous uptick in new HIV infections. That month, there were 11 new

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[17] Id.
[18] Page et al., Injection Drug Use and Hepatitis C Virus Infection in Young Adult Injectors: Using Evidence to Inform Comprehensive Prevention, 57 Clinical Infections Disease S32, S33 (2013).
[19] Valdiserri et al., Confronting the Emerging Epidemic of HCV Infection Among Young Injection Drug Users, 104 Am. J. Pub. Health 816 (2014).
[20] Garfein et al., A Peer-Education Intervention to Reduce Injection Risk Behaviors for HIV and Hepatitis C Virus Infection in Young Injection Drug Users, 21 AIDS 1923 (2007).

cases in the county, which had only seen five newly diagnosed cases from 2004 through 2013. Researchers found a staggering total of 181 HIV infections in Scott County from November 2014 to November 2015.[21] Of these individuals, 167 were co-infected with HCV. Notably, 173 of the 181 infected persons (91.9%) reported injection drug use in the past year. This catastrophic outbreak occurred in an environment in which there were no public health strategies to ensure access to clean needles. Limiting access to clean needles in Massachusetts to only those efforts undertaken by the Department of Public Health risks similar outbreaks in communities throughout the Commonwealth.

Researchers studying the epidemic concluded that "[a]buse and injection of prescription opioid analgesics was the root cause of this HIV outbreak, and these issues affect many communities."[22] In response to the Scott County outbreak, Indiana Governor and U.S. Vice President-Elect Michael Pence

[21] According to the U.S. Census Bureau, the total population of Scott County was only 23,744 in 2015 – roughly the same population as the city of Walpole, MA.
[22] Peters et al., HIV Infection Linked to Injection Use of Oxymorphone in Indiana, 2014-2015, 375 New Eng. J. Med. 229.

declared a public health emergency.[23] One of the responses Governor Pence authorized was a short-term needle access program in Scott County.[24] While commendable, it was too late for the 173 individuals whose HIV infections were preventable.

Critically, recent research from the CDC indicates that the current opioid epidemic may reverse the successes the public health community has achieved in reducing HIV transmission among PWID.

> Although HIV diagnoses among white PWID have decreased since 2008, recent trends suggest heroin use and injection drug use among whites are increasing and, coupled with high rates of syringe sharing, might challenge the decades of progress in HIV prevention among PWID.[25]

An erosion – to say nothing of a reversal – of two decades of success in reducing HIV transmission rates among PWID would greatly harm the public health. Needle access efforts like ASGCC's are one way to stem such an erosion.

D. Evidence Demonstrates that Agencies Providing Greater Access to Clean Needles Are Highly Effective and Benefit the Public Health.

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[23] Schwarz & Smith, Needle Exchange is Allowed After H.I.V. Outbreak in an Indiana County, N.Y. Times (Mar. 27, 2015).
[24] Id.
[25] Wejnert, et al., Vital Signs: Trends in HIV Diagnoses, Risk Behaviors, and Prevention Among Persons Who Inject Drugs – United States, 65 Morbidity & Mortality Weekly Rpt. 1336 (2016).

As the response to the Indiana outbreak by Gov. Pence suggests, clean needle access is a highly effective method of addressing the public health consequences of injection drug use, including deadly infectious diseases. In addition, many agencies that provide needle access also provide access to other items that help reduce disease transmission (alcohol swabs, condoms, etc.), as well as other services that benefit the public health. A recent report from the United States Surgeon General, released on November 17, 2016, described the typical needle/syringe exchange effort as follows:

> The goal of needle/syringe exchange programs is to minimize infection transmission risks by giving individuals who inject drugs sterile equipment and other support services at little or no cost. Additional services from these programs often include HIV/AIDS counseling and testing; strategies and education for preventing sexually transmitted infections, including condom use and use of medications before or after exposure to HIV to reduce the risk of becoming infected (pre-exposure prophylaxis [PrEP] or post-exposure prophylaxis [PEP]); and other health care services. Needle/ syringe exchange programs also attempt to encourage individuals to engage in substance use disorder treatment.[26]

[26] U.S. Surgeon General, Facing Addiction in America: The Surgeon General's Report on Alcohol, Drugs, and Health 4-11 (2016).

Notably, some organizations that distribute clean needles, including ASGCC, also distribute Naloxone, or Narcan, the drug used to reverse opioid overdose. When used properly, Narcan can save lives.

Organizations providing access to clean needles focus on minimizing harm to PWID, while attempting to orient such individuals toward treatment for their substance use disorders.[27]

> In an ideal world, there would be no need to hand out piles of clean needles to heroin addicts. . . . [A]s much as addicts may want to stop shooting chemicals into their battered veins, some of them are so sick they simply can't, or can't yet. The best we can hope for, for now, is to keep them alive.[28]

For several decades, increasing access to clean needles has been recognized as an effective method for reducing HIV transmission among PWID.

> The public-health community involved with HIV and AIDS is, therefore, almost unanimous in its judgment that needle-exchange programmes are one of the most effective ways to reduce the incidence of HIV infection and the burden of mortality and morbidity associated with AIDS among [injection drug users].[29]

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[27] See generally id.; Riley et al., Harm Reduction: Concepts and Practice. A Policy Discussion Paper, 34 Substance Use & Misuse 9-24 (1999).
[28] Abraham, Acts of fear, compassion on Cape Cod, Boston Globe (Dec. 10, 2015).
[29] Lurie & Drucker, An Opportunity Lost: HIV Infections Associates with Lack of a National Needle-Exchange Programme in the USA, 349 Lancet 604 (1997) (emphasis added).

The empirical evidence supports this view. For example, a 1997 study found that cities with needle exchange programs experience decreased rates of HIV among PWID, while cities without needle exchange programs experienced increased HIV prevalence among PWID.[30] That study also noted that needle exchange programs

> have the potential to decrease directly HIV transmission by lowering the rate of needle sharing and the prevalence of HIV in needles available for reuse, as well as indirectly through activities such as bleach distribution, referrals to drug treatments centres, provision of condoms, and education about risk behaviour.[31]

The CDC has reiterated the importance of harm reduction in recent statements on the opioid epidemic, including that:

> [E]fforts are needed to protect persons already dependent on opioids from overdose and other harms. … [A]ccess to integrated prevention services, including access to syringe service programs when available, is also an important consideration to prevent the spread of hepatitis C virus and human immunodeficiency virus infections from injection drug use.[32]

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[30] Hurley et al., Effectiveness of Needle-Exchange Programmes for Prevention of HIV Infection, 349 Lancet 1797 (1997). No data suggests that these findings have changed in the intervening years.

[31] Id. (citations omitted).

[32] Rudd et al., Increases in Drug and Opioid Overdose Deaths—United States, 2000-2014, 64 Morbidity & Mortality Wkly. Rep. 1378 (Jan. 1, 2016).

Other recent CDC research indicates that though there has been an increase in access to clean needles through sterile services programs, "the supply of sterile syringes available to most PWID is likely to be insufficient to meet their needs."[33] As already noted, the CDC recently emphasized that the heroin epidemic "risk[s] stalling or reversing decades of progress in HIV prevention."[34] Massachusetts' needle exchange efforts are a key component of successful HIV prevention strategy in the Commonwealth.[35] Although HIV incidence has remained steady in the United States over the past decade at about 50,000 new infections per year,[36] new HIV diagnoses in Massachusetts dropped 45% from 2000 to 2010.[37] Maintaining this downward trend in the Commonwealth is an obvious public health objective, but restricting access to clean needles risks reversing this trend.

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[33] Wejnert, et al., Vital Signs: Trends in HIV Diagnoses, Risk Behaviors, and Prevention Among Persons Who Inject Drugs – United States, 65 Morbidity & Mortality Weekly Rpt. 1336 (2016).
34 Freyer, Progress in Slowing HIV's Spread Endangered by Opioid Epidemic, Boston Globe (Nov. 30, 2016).
[35] Centers for Disease Control and Prevention. Update: syringe exchange programs—United States, 2002. MMWR Morb Mortal Wkly Rep. 2005; 54(27):673–676.
[36] Prejean J, Song R, Hernandez A, et al. Estimated HIV incidence in the United States, 2006–2009. PLoS ONE. 2011;6(8):e17502.
[37] Massachusetts Department of Public Health Office of HIV/AIDS. The Massachusetts HIV/AIDS epidemic at a glance. Available at: http://www.mass.gov/eohhs/docs/dph/aids/2012-profiles/epidemic-glance.pdf.

Despite two decades of public health research demonstrating the effectiveness and benefits of greater access to clean needles, the non-sale distribution of clean needles continues to face opposition. As the November 2016 United States Surgeon General's report on addiction notes:

> attitudinal barriers hinder the adoption of harm reduction strategies like needle/syringe exchange programs, which evidence shows can reduce the spread of infectious diseases among individuals who inject drugs.[38]

These "attitudinal barriers" have inhibited the use and expansion of efforts to provide needle access, but are wholly unsupported by evidence. These unfounded concerns include the belief that increased needle access may increase drug use, crime, and improper needle disposal. Importantly, needle distribution has not been shown to increase drug use rates.[39] Nor has it been shown to increase the number of needles improperly disposed of in public,[40] or to increase

[38] U.S. Surgeon General, Facing Addiction in America: The Surgeon's General's Report on Alcohol, Drugs, and Health ES-12 (2016).
[39] Fisher et al., Needle Exchange and Injection Drug Use Frequency: A Randomized Clinical Trial, 33 J. Acquired Immune Deficiency Syndromes 199 (2003).
[40] Doherty et al., Discarded Needles Do Not Increase Soon After the Opening of a Needle Exchange Program, 145 Am. J. Epidemiology 730 (1997).

crime.[41] In fact, in observed instances, the exact opposite is true.

For example, in a 2012 study, researchers examined the disposal practices of PWID and the observed rate of improperly disposed needles in San Francisco (a city with a needle exchange program) and Miami (a city without a needle exchange program).[42] The researchers found eight times more improper disposals in Miami, concluding that needle access programs "are a significant means of collecting used syringes and do not increase the amount of publically [sic] discarded used syringes."[43]

In a separate study two years later, researchers examined the needle disposal practices of PWID in Los Angeles, a city in which both syringe exchange programs and pharmacies are available sources of clean injection equipment. Only 2% of study participants disposed of used syringes at pharmacies, while 68% disposed of syringes at syringe exchange programs. Additionally, receiving syringes from a syringe

[41] Marx et al., Trends in Crime and the Introduction of a Needle Exchange Program, 90 Am. J. Pub. Health 1933 (2000) (examining crime trends in Baltimore, Maryland after the introduction of needle access programs).
[42] Tookes et al., A Comparison of Syringe Disposal Practices Among Injection Drug Users In a City with Versus a City Without Needle and Syringe Programs, 123 Drug & Alcohol Dependence 255 (2012).
[43] Id.

exchange program was associated with reduced odds of improper disposal, while receiving syringes from a pharmacy was associated with increased odds of improper disposal.[44]

Simply put, needle access efforts are beneficial to infectious disease prevention and other important public health and public safety goals. All relevant evidence demonstrates that the goals of reducing the spread of infectious disease, reducing drug use, reducing crime, and preventing improper needle disposal are substantially furthered by agencies like ASGCC providing needle access to PWID.

II. THE ECONOMIC COSTS OF BLOOD-BORNE DISEASES TRANSMITTED THROUGH INTRAVENOUS DRUG USE ARE STAGGERING BUT PREVENTABLE.

The transmission of HIV and HCV causes enormous direct and indirect economic loss to the individuals contracting these diseases and their health insurance providers, and to the public at large, including through the costs incurred by Medicare and Medicaid programs.

A. Individual Costs.

[44] Quinn et al., Syringe Disposal Among People Who Inject Drugs in Los Angeles: The Role of Sterile Syringe Source, 25 Int'l J. Drug Pol'y 905 (2014).

The cost of treatment for individuals infected with HIV and HCV is extreme. For example, although HIV is no longer fatal if adequately treated, it requires lifelong medical treatment at an extraordinary cost, estimated to be $367,134 per person in 2009.[45] Treating HCV is also extremely expensive. New, more effective HCV treatments which can cure the disease cost about $100,000 per person.[46] Lifetime HCV treatment cost is even more expensive--the average annual health care cost for a patient with chronic HCV is $24,176.[47] If the patient has end-stage liver disease, a patient's annual health care costs can range between $113,000 and $145,000.[48]

End-stage liver disease is not uncommon in patients with HCV. As already noted, the leading cause of liver transplantation in the United States is cirrhosis caused by HCV.[49] A liver transplant costs an

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[45] HIV Cost-effectiveness, Centers for Disease Control and Prevention, http://www.cdc.gov/hiv/programresources/guidance/costeffectiveness/index.html (Sept. 23, 2015).
[46] Thuluwath, Hepatitis C: A Complete Guide for Patients and Families 155-156 (John Hopkins University Press 2015).
[47] Gordon et al., Impact of Disease Severity on Healthcare Costs in Patients with Chronic Hepatitis C (CHC) Virus Infection, Nov. 2012 Hepatology 1651, 1657 (2012), available at http://www.natap.org/2012/HCV/25842_ftp.pdf.
[48] Id.
[49] National Digestive Diseases Information Clearinghouse, Liver transplantation, http://www.niddk.nih.gov/health-information/health-topics/liver-disease/liver-transplant/Documents/livertransplant_508.pdf.

estimated $577,000.[50] Even after receiving a liver transplant, the patient faces many risks which in themselves can be life-threatening and expensive to treat, including blood clots and rejection of the new liver.[51] Additionally, the immunosuppressive medication patients receive to prevent rejection of the new liver can cause diabetes and kidney damage,[52] further increasing health care costs.

B. Public Costs.

As excessive as the individual costs of HIV and HCV are, public spending on treatment, prevention, and research connected to these diseases is exorbitant. President Obama included $27.5 billion earmarked for domestic HIV-related efforts in his FY 2017 federal budget request for HIV-positive people, which included anticipated spending of $3.1 billion on domestic cash and housing assistance programs, and $20.8 billion on domestic care and treatment. Of the budgeted dollars for HIV treatment, $19.7 billion is mandatory spending in programs such as Medicaid, Medicare, Social

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[50] Smith, Treating HCV—Is the Price Right?, MedPage Today (Feb. 18, 2014), http://www.medpagetoday.com/gastroenterology/hepatitis/44357.
[51] National Institute of Health, Liver Transplantation (June 2010), https://www.niddk.nih.gov/health-information/health-topics/liver-disease/liver-transplant/Documents/livertransplant_508.pdf.
[52] Id.

Security Disability Insurance, and Supplemental Security Income. This spending is not conditioned on Congressional appropriation, but rather is determined by how many people are eligible for the programs and, of course, how much treatment costs.[53]

Substantial, increasing federal funding is also directed to HCV treatment efforts. The President's FY 2017 budgeting request included $9 million to support HCV treatment for those co-infected with HIV.[54] In addition, spending on prescription drugs covered under the Medicare Part D prescription drug benefit has been rapidly increasing due, at least in part, to HCV treatments.[55] In March of 2015 alone, $864 million of Medicare money was spent on HCV drugs.[56]

Massachusetts also spends large amounts of its own money on HIV and HCV treatment and prevention. In FY 2015, over $32 million of Commonwealth funds were spent on HIV/AIDS prevention and treatment services. These included "related services for persons affected

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[53] U.S. Federal Funding for HIV/AIDS: Trends Over Time, Kaiser Family Foundation, http://kff.org/global-health-policy/fact-sheet/u-s-federal-funding-for-hivaids-trends-over-time/ (June 10, 2016).
[54] Id.
[55] 10 Essential Facts About Medicare and Prescription Drug Spending, Kaiser Family Foundation, http://kff.org/infographic/10-essential-facts-about-medicare-and-prescription-drug-spending/ (July 7, 2016).
[56] Id.

by the associated conditions of viral hepatitis."[57] In addition to this funding, the Massachusetts Department of Public Health expected $659,352 in federal grant money directed to adult viral hepatitis prevention.[58]

The need for this significant public investment is only expected to grow:

> [T]here is broad consensus that the number of Americans with serious long-term complications of HCV will increase in the next decade, incurring increasing amount of health care costs, particularly in the public sector (i.e. Medicare).[59]

Injection drug use without access to clean needles only amplifies the likelihood of increased spending in these areas.

C. Needle Distribution Programs Reduce the Individual and Public Costs of HIV and HCV.

As discussed above, tens of thousands of people become infected with HIV and HCV each year through injection drug use. Eight percent of new HIV infections in the United States in 2014 were

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[57] HIV/AIDS Prevention Treatment and Services, Governor Charles D. Baker's Budget Recommendation – House 1 Fiscal Year 2016, http://www.mass.gov/bb/h1/fy16h1/brec_16/act_16/h45120103.htm).
[58] Department of Public Health, Governor Charles D. Baker's Budget Recommendation – House 1 Fiscal Year 2016, http://www.mass.gov/bb/h1/fy16h1/brec_16/act_16/h45120103.htm.
[59] Younossi, et al., The impact of hepatitis C burden: an evidence-based approach, 39 Alimentary Pharmacology and Therapeutics 518 (2014), available at http://onlinelibrary.wiley.com/doi/10.1111/apt.12625/full.

attributed to injection drug use.[60] In Massachusetts alone there were an estimated 484 new diagnoses of HIV in 2009, with an estimated total lifetime treatment cost for just these cases of $178,000,000.[61] These costs must be borne by the individual, their families, and/or public institutions.

The staggering economic cost of HIV and HCV infection and the related treatment can be materially reduced through clean needle access offered by organizations like ASGCC in Hyannis. Such needle access efforts reduce the incidence of transmission via injection drug use and, by extension, reduce the costs to individuals and the public incurred by these infections. Data from numerous studies show that such efforts are highly effective both at preventing the spread of disease and improving the public health.[62] In

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[60] Ctrs. For Disease Control & Prevention, HIV in the United States: At a Glance, http://www.cdc.gov/hiv/statistics/overview/ataglance.html.

[61] HIV Cost-effectiveness, Centers for Disease Control and Prevention, http://www.cdc.gov/hiv/programresources/guidance/costeffectiveness/index.html. Up to 10% of global HIV infections are attributable to injection drug use and, if Sub-Saharan Africa is excluded from the numbers, nearly a full third of global HIV infections are directly attributable to injection drug use. Facts about Drug Use and the Spread of HIV, United Nations Office on Drugs and Crime, https://www.unodc.org/documents/frontpage/Facts_about_drug_use_and_the_spread_of_HIV.pdf.

[62] See, e.g., Center for Disease Control and Prevention, Syringe Exchange Programs – United States, 2008 (Nov. 10 2010), http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5945a4.htm/syringe-exchange-programs-united-states-2008; U.S. Department of Health

fact, the United States Secretary for Health and Human Services stated in 2000 that there is "conclusive scientific evidence" that access to clean needles decreases new HIV infections.[63] The previously referenced November 2016 U.S. Surgeon General report concludes that harm-reduction models, such as needle access programs, have proven effective in preventing and reducing the risks associated with injection drug use.[64] The report also states that "providing sterile needles and syringes to people who inject drugs has become an important strategy for reducing disease transmission" and "[e]valuation studies have clearly shown that needle/syringe exchange programs are effective in reducing HIV transmission and do not increase rates of community drug use."[65]

Needle access services such as those offered by ASGCC contribute to decreases in infection rates in

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and Human Services, Hepatitis C Virus Infection in Young Persons Who Inject Drugs at 13 (May 23, 2013), https://www.aids.gov/pdf/hcv-and-young-pwid-consultation-report.pdf.

[63] U.S. Department of Health and Human Services, Evidence-based Findings on the Efficacy of Syringe-exchange Programs: An Analysis from the Assistant Secretary for Health and Surgeon General of the Scientific Research Completed Since April 1998 (2000), http://www.csam-asam.org/evidence-based-findings-efficacy-syringe-exchange-programs-analysis-scientific-research-completed-ap.

[64] U.S. Department of Health & Human Services, Facing Addiction in America: The Surgeon General's Report on Alcohol, Drugs, and Health at 4-10 (2016), available at https://addiction.surgeongeneral.gov/surgeon-generals-report.pdf.

[65] Id. at 4-11.

ways that other approaches have not been able to accomplish. For example, PWID often feel judged or are afraid of encountering people they know when purchasing needles at a pharmacy. In addition, some users would rather risk injecting with dirty needles than spend money on new ones.[66] During the suspension of ASGCC efforts after the Town's cease and desist order, but prior to the trial court's preliminary injunction order, reporters found that people who utilized the programs services asked other drug users--whom they knew to be infected with HIV or HCV--for dirty needles.[67]

The easier needle distribution programs are to access, the more likely people who inject drugs are to utilize them and receive clean needles, thereby reducing rates of infection. However, most citizens in the Commonwealth do not have access to such a program. Without ASGCC's efforts, the 20-30 PWID who visit the Hyannis site every day will likely use dirty needles.[68]

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[66] Spillane, Life inside a needle exchange program, Cape Code Times, http://www.capecodtimes.com/article/20151117/NEWS/151119466 (Nov. 17, 2016).

[67] Id.

[68] See Memorandum of Decision and Order on Plantiff's Motion for a Preliminary Injunction, AIDS Support Group of Cape Cod v. Town of Barnstable, Barnstable Sup. Ct., No. BACV2015-00586, slip op. at 9-10 (Dec. 1, 2015).

Indeed, should this Court curtail ASGCC's efforts permanently, this behavior will only increase, resulting in increased HIV and HCV infections on Cape Cod.

III. THE HUMAN COSTS OF DISEASES TRANSMITTED THROUGH INTRAVENOUS DRUG USE, AND THE RELATED LOSS OF LIFE, ARE ALSO STAGGERING BUT PREVENTABLE.

The human cost of intravenous drug use and addiction on users, their families, friends, and communities is enormous. So too is the human cost of the diseases transmitted through dirty needles, like HIV and HCV. These costs take the form of physical, mental, and emotional suffering, and even death due to accidental overdose. During 2015 alone, 1,574 people in the Commonwealth died as a result of accidental opiate overdose.[69] Tragically, it is likely that the number of overdose deaths in 2016 will exceed this: through September 2016, 1,464 Massachusetts residents died due to accidental overdose.[70]

Needle access efforts like ASGCC's work at its Hyannis site provide tangible and effective services that are proven to mitigate, if not prevent

[69] See Massachusetts Department of Public Health, Data Brief: Opioid-related Overdose Deaths Among Massachusetts Residents, November 2016, http://www.mass.gov/eohhs/docs/dph/stop-addiction/current-statistics/data-brief-overdose-deaths-nov-2016-ma-residents.pdf.
[70] Id.

altogether, this suffering and death. Examples of the effectiveness of these prevention efforts are the demonstrable results of ASGCC's Narcan distribution: between July 1, 2014 and June 30, 2015, ASGCC reported 216 successful overdose reversals using Narcan that it distributed.[71] Unfortunately, in communities of people who inject drugs, the risk of accidental death due to overdose is omnipresent: "with heroin it becomes impossible to know who will make it."[72] As one of the Cade Cod residents in the recent HBO documentary, Heroin: Cape Cod USA, put it: "The friends that have really successfully gotten clean, I can count on one hand. Most of them die."[73]

Seeing the human faces of this suffering underscores the profound impact that addiction and related diseases can have on users and their families, friends, and communities. One such face is Kim Powers, a Cape Cod resident and a former heroin addict. As

[71] See Memorandum of Decision and Order on Plantiff's Motion for a Preliminary Injunction, AIDS Support Group of Cape Cod v. Town of Barnstable, Barnstable Sup. Ct., No. BACV2015-00586, slip op. at 8 (Dec. 1, 2015); and Addendum to Appellant's Brief at 13.
[72] Helton, Cape Cod: America's Heroin Hot Spot, The Daily Beast (Dec. 26, 2015), http://www.thedailybeast.com/articles/2015/12/26/cape-cod-america-s-heroin-hot-spot.html.
[73] Heroin: Cape Cod USA (Home Box Office, 2016) at 57:40.

Yvonne Abraham of the Boston Globe wrote in a December 2015 article:

> Powers, 50, was a heroin addict herself during the 1980s and 1990s. She lost friends, family, and a boyfriend to HIV, all of them infected by shared needles — needles she used, too. 'It's just lucky I'm not HIV positive,' she said … 'You couldn't get help. People treated us horribly.' She finally stopped using in the fall of 2001, and has been working to help addicts since.[74]

Ms. Powers now works at ASGCC in Hyannis, where she helps PWID manage their addiction and attempts to orient some of her clients toward detox, treatment, and recovery. Another such face is Nicole Bourgeois, who moved in underneath the Longfellow Bridge in Boston when "[s]he was in her early 20s, homeless and in heroin's grip. … For a few months, she slept on a mattress hidden on grates below the subway stop there."[75] Now, Ms. Bourgeois is 32 and employed at Massachusetts General Hospital, working as a "recovery coach" embedded in the drug treatment unit at MGH.[76]

Other faces of the Massachusetts opioid epidemic and related diseases include current and former users, their families, and addictions specialists, who each

[74] Abraham, Yvonne, Acts of fear; compassion on Cape Cod, The Boston Globe (Dec. 10, 2015).
[75] Kowalczyk, To get this job, a former life as an addict is required, The Boston Globe (Oct. 11, 2016).
[76] Id.

have first-hand experience with the human cost of addiction, blood-borne disease, and the benefits of needle access programs. The stories of some of these individuals are provided below:

A. Lisa Ferrarini

Lisa Ferrarini[77] injects drugs, and has been using heroin since 2006. Lisa and her husband, who also injects drugs, are homeless and have limited access to social services. Lisa is also a member of the Needle Exchange and Overdose Prevention program (NEODP) at AIDS Action Committee of Massachusetts in Cambridge, MA. The NEODP is funded by the Department of Public Health.

Lisa's husband suffers from Hepatitis C, but she has been able to avoid infection. At the needle exchange, she has learned to use only her own needles and how to avoid infections. The needle exchange also provides Lisa and her husband with enough clean needles such that they do not have to share. Without access to clean needles at the needle exchange, Lisa believes she would have shared needles at some point, and likely with her husband who is HCV positive.

[77] The facts set forth relating to Lisa are contained in the Declaration of Lisa Ferrarini. See Addendum at Ex. B.

Lisa's husband is currently incarcerated. She is nervous for when he is released, as she is certain that he will start using again. She is also worried that he will be at risk for overdosing, but the needle exchange gave Lisa a supply of Narcan, and trained her on how to use it, in case she or her husband overdoses.

Lisa has come to depend on the needle exchange for more than just clean needles: she has gotten food, clothes, and bus passes there, and they have also connected her with other services and programs. Without the needle exchange, Lisa believes that she would have contracted HCV from her husband.

B. Liz Herrig

Liz Herrig, LMHC, is a psychotherapist who has worked with PWID in the Boston area for over 10 years.[78] Liz has personally saved multiple people from overdose using Narcan, often obtained from local needle access operations like the one run by ASGCC. She describes the first instance she saved another person's life from an accidental overdose:

> I never knew how I would respond to an overdose until I was actually leaning over

[78] The facts set forth relating to Lisa are contained in the Declaration of Elizabeth Herrig. See Addendum at Ex. C.

> someone's prone body, listening for their breath. Adrenaline surged through my body while my brain struggled to recall every lesson about administering Narcan. Sternum rub, listen for heartbeat, listen for breath, sternum rub, listen for heartbeat, listen for breath, rescue breath, put the Narcan together, one spray in each nostril, listen for breath, repeat. Then there was the sound. A gurgle that seeped out from deep within his throat. I couldn't tell if it sounded death or life. … This time I was lucky. Or rather, he was lucky. I had found him lying in the melted snow, unconscious with shallow breaths. … Many aren't that lucky.[79]

Liz works every day with men, some as young as 19, infected with HVC, most through using a dirty needle. Many barriers to access to clean needles cause Liz's clients to reuse needles that have been infected, or dulled, from repeated use. Dull needles, like infected ones, can come with just as much risk. Liz currently works with a client that battled endocarditis (an infection of the inner lining of the heart) caused by using dull, reused needles. His illness hospitalized him for over a month. He won his fight against infection but it rendered him unable to have children at age 35.

Liz works on what the media has dubbed "Methadone Mile" in downtown Boston, near the Boston Medical

[79] Addendum, Ex. C at ¶¶4-5.

Center. This past summer alone, the agency for which Liz works responded to 17 overdoses in this small area of Boston. Every one of these individuals was lucky: Liz and her colleagues saved their lives. They were able to administer Narcan that the local needle access agency provided to them. These survivors had another chance to engage in treatment and recover. As Liz's boss reminds her: "you can't treat a dead person".

C. Ryan Beers

Ryan Beers is 27 years old.[80] He was born and raised on Cape Cod, and he now lives and works in Bourne, MA. Ryan grew up in what he describes as a loving, supportive family, and was a solid student and varsity basketball player in high school. Ryan didn't drink or do drugs in high school. That changed after he suffered a compound fracture of his right leg in a motorcycle accident at the age of 18. He was prescribed a large daily dose of the opiate pain-killer Percocet for over a year, which hooked Ryan on opioids. After the doctors in Boston stopped prescribing him the pills, Ryan turned to the black market, including traveling to other states, to get

[80] The facts set forth relating to Ryan are contained in the Declaration of Ryan Matthew Beers. See Addendum at Ex. D.

pills to feed his addiction. Ryan tried heroin after the pills got too expensive.[81]

Ryan overdosed on heroin on September 13, 2013. The woman he was with was too scared to take him to the emergency room or call the paramedics. She also did not have Narcan to try to reverse the overdose. She left him unconscious and not breathing in the hospital parking lot. ER staff found him and administered Narcan, which saved his life.

A number of people close to Ryan have also suffered from addiction, contracted diseases through sharing needles, and some even died. For example, one of Ryan's close childhood friends and teammates on his high school basketball team died from overdose in August 2016, just four days after his 28th birthday. A former girlfriend also overdosed and died in 2015 after trying heroin for the first time.

Ryan reused his own needles, but he was very careful to never share needles with others due to his medical education from his nurse mother and his EMT training. Many people he knew were not so careful,

[81] After Ryan began using heroin, he was approached by a filmmaker for HBO who was shooting a documentary on Cape Cod about the heroin epidemic there. He agreed to be filmed, and is one of the individuals featured in the HBO film Heroin: Cape Cod USA.

including a person very close to him who contracted HCV due to sharing needles.

When Ryan was using,[82] there was nothing nearby like the services provided by ASGCC in Hyannis, but he believes that such services are beneficial. For example, broader access to Narcan may save other lives, and access to clean needles can help prevent diseases, like the HCV that afflicts Ryan's friend.

D. The Families

The impact of heroin addiction on users' families is also severe. Author and former addict Tracey Helton recently underscored this impact:

> My own mother suffered in silence as she wondered on a daily basis if today would be the day she would get that call saying I had died from my addiction.[83]

Steven Okazaki, the acclaimed filmmaker behind both Black Tar Heroin and Heroin: Cape Cod USA, noted that the families of PWID he encountered during filming were "tired of hiding their child's addiction, [and were] feeling lonely and ostracized" about "someone they love and can't seem to help."[84]

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[82] Ryan has been clean for two years. In addition to holding a full time job, and doing odd jobs in his community, he volunteers at a detox center near the Cape. There, he shares his story of recovery in hopes of helping others struggling with addiction.
[83] Helton, Cape Cod: America's Heroin Hot Spot.
[84] Id.

Marylou Sudders is the Secretary of Health and Human Services of Massachusetts. She recently discussed her experience with the opiate addiction of a family member, and its "devastating impact on her family," in a Boston Herald interview.[85] Sudders said it was hard to watch as one of her relatives "deteriorated" over a "40-year on and off history with opioids, prescription pills, [and] doctor shopping." Even with her knowledge about the opiate epidemic in the Commonwealth, for her too "it was sort of a shock to her system." Sudders recalled watching as her relative was "Narcaned" in an ambulance and revived from a drug overdose. Sudders also stated that the family "struggled for years, unable to find relief for the relative."

This problem is so prevalent that numerous chapters of a family support group, called Learn to Cope, have been created across Massachusetts.[86] A member of one such chapter, Mary, a mother of an addict, provides a stark list of the tangible impact

[85] Kim, MA Health Secretary Details Impact of Relative's Addiction On Her Family, The Fix (Nov. 2, 2016), https://www.thefix.com/ma-health-secretary-details-impact-relatives-addiction-her-family (last accessed on Nov. 11, 2016).

[86] There are Learn to Cope chapters all over the Commonwealth, including in Brockton, Quincy, Yarmouth, New Bedford, Taunton, Norwell, Pittsfield, Holyoke, Gardner, Framingham, Worcester, Cambridge, Tewksbury, Lowell, Gloucester, and Salem.

her daughter's addiction has had on the family within just the past year, including serious conversations with her husband about burying their child, and twice bringing their child "back to life."[87]

As these stories underscore, intravenous drug use and related blood-borne diseases exact an enormous and real toll on users, their families, and their communities. Efforts to provide greater public access to clean needles and related services, like those undertaken by ASGCC, are an effective way to reduce this human cost.

IV. MASSACHUSETTS COMMUNITIES CAN TAKE MANY PROVEN AND INEXPENSIVE STEPS TO PROTECT THE PUBLIC FROM IMPROPERLY DISCARDED NEEDLES.

The *Amici* understand from the trial judge's order below that the Town's "foremost concern" was publicly discarded needles.[88] Although the *Amici* agree with the trial judge that such a concern is "understandable,"[89] eliminating the provision of needles by agencies that encourage the safe disposal and return of used needles will increase, not decrease, the rate of publicly discarded needles. Pharmacies, for example, do

[87] Mary, Learn to Cope, http://learn2cope.org/your-role/ (last visited Nov. 11, 2016).
[88] See Addendum to Appellant's Brief at 11.
[89] See id.

not take back used needles they sell. In fact, the trial judge emphasized that ASGCC took back more needles than it gave out.[90]

Regardless, there are a number of proven, standard public health strategies that communities take to further reduce the number of needles, such as encouraging the return of syringes to a safe disposal location and implementing sweeps and clean-ups of areas with frequently discarded needles. One such proven safe disposal location is ASGCC itself. The efficacy of such efforts is demonstrated by the fact that, in 2015, the ASGCC collected many more syringes than it distributed at its Hyannis location. Specifically, the location collected for safe disposal 2,605 more syringes than it distributed.[91] In recovering more than 100% of the needles it distributed, ASGCC actively assisted the community of Hyannis in reducing the number of improperly discarded needles.

[90] See id. at 12.
[91] See Memorandum of Decision and Order on Plantiff's Motion for a Preliminary Injunction, AIDS Support Group of Cape Cod v. Town of Barnstable, Barnstable Sup. Ct., No. BACV2015-00586, slip op. at 7 (Dec. 1, 2015).

Communities can also provide public biohazard containers for needle disposal. For example, the City of Melbourne, Australia, provides about 470 syringe disposal bins to the public.[92] In Cork, Ireland, the installation of public disposal bins in the city's public restrooms achieved a 90% reduction in drug paraphernalia left in those bathrooms.[93]

Ready access to clean needles also creates a safer environment for law enforcement personnel. If needles are scarce and difficult to obtain, subjects being searched are more likely to fail to disclose their presence in a jacket or pocket. In Connecticut, for example, needlestick injuries among police officers in Hartford were reduced after the introduction of a needle exchange program.[94] Similarly, the Police Executive Research Forum has noted that PWID are more comfortable telling officers they are in

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[92] Syringe disposal, City of Melbourne, http://www.melbourne.vic.gov.au/community/health-support-services/health-services/Pages/syringe-disposal.aspx.

[93] See Special bins cut drug paraphernalia in Cork public toilets, Raidió Teilifís Éireann (Ireland's National Public Service Broadcaster), http://www.rte.ie/news/2013/0703/460333-cork-needles/ (July 13, 2013).

[94] Tatelbaum, Needlestick safety and prevention act, 4 Pain Physician 193-95 (April 2001), available at http://www.painphysicianjournal.com/current/pdf?article=Mjky&journal=7.

possession of needles if they are clients of a needle distribution program.[95] This, in turn, helps reduce the number of potential accidental injuries to public safety personnel by hidden needles.

In sum, limiting access to clean needles will not help communities reduce improperly discarded syringes. It will have the opposite effect.

IV. CONCLUSION

For the foregoing reasons, *Amici Curiae* respectfully urge this Court to conclude that Massachusetts law does not prohibit the non-sale distribution of hypodermic needles and syringes by any private individual or entity. Because the significant public health benefits of greater access to clean needles are clear and undisputed, their availability should not be limited in contravention of the Legislature's intent.

[95] McCampbell & Rubin, A Needle Exchange Program: What's In It For Police?, 14 Subject to Debate, Police Executive Research Forum 4 (Oct. 2000).

Respectfully submitted,

Dated: Dec. 23, 2016

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ADDENDUM

EXHIBIT A

AMICI CURIAE

Massachusetts Infectious Diseases Society

The Massachusetts Infectious Disease society represents more than 500 infectious disease specialists in Massachusetts. The Society was formed to promote and recognize excellence in research, patient care, public health, disease prevention, and education in the field and to provide education and service for the recognition, prevention, and treatment of infection diseases.

Massachusetts Public Health Association

The Massachusetts Public Health Association advocates for and provides education and community organizing in relation to policies and programs that prevent illness, disease, and injury, particularly to populations vulnerable to a lower health status.

Association of Behavioral Health

The Association for Behavioral Health is a statewide association that represents over 80 community-based mental health and addiction treatment provider organizations. Members are the primary providers of publicly-funded behavioral healthcare services in the state, providing services to about

81,000 residents each day and 1.5 million residents each year. The Association represents its members to funding, legislative, and regulatory agencies both in the state and federal governments. In addition, the Association is an advocacy group, working to ensure that citizens throughout the state have access to quality, comprehensive community-based care.[1]

Harvard Pilgrim Health Care

Harvard Pilgrim Healthcare is one of the largest health insurance providers in Massachusetts. Harvard Pilgrim also has a foundation, the Harvard Pilgrim Health Care Foundation, which focuses on increasing access to fresh and affordable food in communities in the region, community service and contributions to said communities, and addresses health disparities affecting diverse populations.

Blue Cross and Blue Shield of Massachusetts

Blue Cross and Blue Shield of Massachusetts, Inc. ("BCBSMA"), is a community-focused, not-for-profit health plan with a mission of making quality health care affordable. BCBSMA is committed to promoting the health of its members and strengthening the

[1] http://www.abhmass.org/about-us/who-we-are.html

communities in which they live. As a health insurer doing business in the Commonwealth of Massachusetts, BCBSMA has a strong interest in the issues addressed in this appeal.

Baystate Health, Inc.

Baystate Health, Inc. is a not-for-profit, integrated health care system serving over 800,000 people throughout western New England. The Baystate system includes Baystate Medical Center, a teaching hospital and the region's only Level 1 trauma center; Baystate Children's Hospital; three community hospitals – Baystate Franklin Medical Center in Greenfield, Baystate Wing Hospital in Palmer, and Baystate Noble Hospital in Westfield; a network of more than 80 medical practices; a health insurance provider, Health New England, Inc.; home care and hospice services; and comprehensive regional laboratory and diagnostic services. Baystate Health has over 12,000 employees and is a national leader in quality improvement and patient safety.

National Alliance of State and Territorial AIDS Directors

NASTAD’s mission is to end the intersecting epidemics of HIV, viral hepatitis, and related conditions by strengthening domestic and global governmental public health through advocacy, capacity building, and social justice. NASTAD's vision is a world free of HIV and viral hepatitis. Founded in 1992, NASTAD (National Alliance of State & Territorial AIDS Directors) is a non-profit association that represents public health officials who administer HIV and hepatitis health care, prevention, education, and supportive service programs funded by state and federal governments in all 50 U.S. states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and the U.S. Pacific Islands. NASTAD also supports partner governments in Africa, the Central America region, and the Caribbean region. As a national leader in health department mobilization, NASTAD encourages the use of applied scientific knowledge and community engagement as a method of reducing the incidence of HIV and hepatitis infections in the U.S., its territories, and around the world. Each of NASTAD’s six programmatic teams—Health Care

Access, Health Systems Integration, Policy & Legislative Affairs, Hepatitis, Health Equity & Prevention, and Global—interpret and influence policies, conduct trainings, offer technical assistance, and provide advocacy mobilization for U.S. health departments and ministries of health around the world to improve health outcomes for people living with HIV and hepatitis.

Partners HealthCare System, Inc.

Partners HealthCare is a not-for-profit health care system that is committed to patient care, research, teaching, and service to the community locally and globally.

Founded in 1994 by Brigham and Women's Hospital and Massachusetts General Hospital, Partners HealthCare includes community and specialty hospitals, a managed care organization, a physician network, community health centers, home care and other health-related entities. Several of our hospitals are teaching affiliates of Harvard Medical School, and Partners is a national leader in biomedical research.

UMass Memorial Healthcare, Inc.

UMass Memorial Health Care, Inc. is a private, not-for-profit Massachusetts corporation which operates the largest integrated health care delivery system in Central Massachusetts, including UMass Memorial Medical Center, UMass Memorial Medical Group which employees over 1,100 physicians, HealthAlliance Hospital, Marlborough Hospital, Clinton Hospital, the Community Healthlink behavioral health and substance abuse network and a number of strategic joint ventures that provide a broad range of health care and related services to Worcester and the surrounding central Massachusetts communities. UMass Memorial Health Care is committed to improving the health of the people of our diverse communities of Central New England through culturally sensitive excellence in clinical care, service, teaching and research.

Greater Lawrence Family Health Center

The Greater Lawrence Family Health Center provides a variety of medical services to the Merrimack Valley at a number of locations. Offered services include a Hepatitis C Clinic, HIV and

Hepatitis screening, Hepatitis A and B immunizations, HIV testing, HIV nursing, and HIV nutrition services.

Lynn Community Health Center

The Lynn Community Health center provides health care services to the surrounding community, regardless of ability to pay. Services cover the spectrum of health care and include HIV/AIDS counseling and testing.

Outer Cape Health Services, Inc.

Outer Cape Health Services, Inc., proves healthcare to those who live in and visit the eight towns of the Lower and Outer Cape. In 2015, approximately 16,500 people visited Outer Cape Health Services. The primary, preventative, and urgent health care needs of these patients are met regardless of ability to pay.

Duffy Health Center

Duffy Health Center, located in Hyannis, is Barnstable County's primary health care provider for homeless adults. The Health Center provides health care services both at their center in Hyannis and via a mobile health clinic. Services offered include primary care and mental health services.

Fenway Health

Fenway Health is a healthcare provider specifically focused on the lesbian, gay, bisexual, and transgender community. Fenway Health provides health care, education, conducts research, and advocates for the community.

Manet Community Health Center, Inc.

The Manet Community Health Center is a non-profit health and social service provider. The Center provides medical services including HIV and STI testing and chronic disease management at five locations across the state: two locations in Quincy and one location each in North Quincy, Taunton, and Hull.

Massachusetts Association of Alcoholism and Drug Abuse Counselors

The Massachusetts Association of Alcohol and Drug Abuse Counselors, Inc., is an organization of addiction-focused professionals with a stated mission "to achieve excellence through education, advocacy,

knowledge, standards of practice, ethics, professional development, and research."[2]

Massachusetts Association of Community Health Workers

The Massachusetts Association of Community Health Workers is a professional organization of community health workers (public health workers with a community- and culture-based approach to providing education and services) from all disciplines. The purpose of the Association is to organize community health workers, integrate them into the general health care work force, and strengthen the professional identity of community health workers.

Tapestry Health Systems, Inc.

Tapestry Health provides community-based health services in a number of Massachusetts communities including Greenfield, Holyoke, North Adams, Northampton, Pittsfield, Springfield, and West Springfield. Services include HIV testing, syringe access and disposal, narcan access, Hepatitis A & B vaccinations, and Hepatitis C testing.

[2] http://www.maadac-ma.org/about_maadac.htm

Victory Programs

Victory Programs has more than 40 years of experience opening doors to hope, health and housing for individuals and families in need. Since its inception in 1975, the agency has expanded to 17 health, housing, and prevention programs providing shelter and recovery services to more than 2,300 people annually. Victory Programs has a storied history of responding to emerging needs in the community - from being one of the first agencies in Massachusetts to allow HIV positive clients in its addiction recovery programs in 1981, to launching a mobile prevention unit in 2015 to reach community members where they live. Throughout its organizational growth, Victory Programs' commitment to those struggling with homelessness, drug and alcohol addiction and chronic illnesses like HIV/AIDS always remains its top priority. Additional information is available at www.vpi.org

Multicultural AIDS Coalition

The Multicultural AIDS Coalition's (MAC) aims to mobilize communities of color to end the HIV/AIDS epidemic. Since 1988, MAC has worked to ensure high

quality, accessible prevention and treatment services for people living with HIV, at high risk for being infected, or closely affected by the disease. MAC supports broader efforts to eradicate conditions that fuel the epidemic, including substance abuse, lack of health care access, homelessness, incarceration and discrimination based on race, sex, ethnicity, gender expression, and sexual orientation.

Homeless Not Hopeless

Homeless Not Hopeless provides shelter for homeless men and women and assists them in dealing with a variety of issues including addiction. The organization helps those it serves find employment or volunteer opportunities and teaches life and occupational skills. The organization also provides education about and advocates for the needs of the homeless community.

AIDS Project Worcester

AIDS Project – Worcester provides services to support the medical care and needs of people living with HIV/AIDS. The Project also provides prevention services, including free HIV and HCV counseling and testing.

MassEquality.org, the Campaign for Equality

MassEquality works against discrimination and oppression based on sexual orientation, gender identity, and gender expression.

New England AIDS Education and Training Center

The New England AIDS Education and Training Center provides training and education for health care providers addressing counseling, diagnosis, treatment, and care management for persons living with HIV/AIDS.

Massachusetts Chapter of the National Association of Social Workers

The National Association of Social Workers (NASW), founded in 1955, is the largest association of professional social workers in the United States with over 130,000 members in 55 chapters. The Massachusetts Chapter numbers 7,000 members. Our members work in health care facilities, prisons, substance use programs, and community settings to address the spread of HIV and support those who are infected. NASW policies endorse HIV/AIDS prevention strategies that focus on harm reduction, of which needle exchange is an important component. We seek an increase in both publicly and privately funded drug abuse prevention

and treatment programs to reduce HIV incidence among IV drug users. Our advocacy includes work both globally and domestically to erode barriers to health and mental health care access, HIV education, prevention and treatment.[3]

The Dimock Center

The Dimock Center provides screening, immunization, and prevention with specialized clinics, including women's health, HIV/AIDS, eye, and dental.

Justice Resource Institute

The Justice Resource Institute provides a large number of services and programs with a stated mission of pursuing social justice. Programs include housing and health services. Health services are directed towards a variety of communities or health issues, such as the LGBT community and those living with HIV/AIDS. The Institute provides testing for HIV/AIDS as well as virial hepatitis.

John Snow, Inc.

John Snow, Inc., works to improve the health of individuals and communities. The organization

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[3] NASW Policy Statements: HIV and AIDS in Social Work Speaks 152, 155 - 156 (10th ed. 2015).

provides technical and managerial assistance to public health programs, works with governments and other organizations to improve quality and access of health systems, among other initiatives.

North Shore Health Project

The North Shore Health Project provides advocacy, case management, and support services to people living with HIV/AIDS and Hepatitis C. The Project also provides outreach and education via professional training, educational speakers, and nurse educators, as well as community and clinical support.

Community Research Initiative of New England

The Community Research Initiative is a non-profit organization that conducts clinical research, provides access to medication and health insurance to those in need, provides treatment information, and provides data critical to FDA approval of HIV treatments.

Center for Human Development, Inc.

The Center for Human Development, Inc. (CHD) is one of the largest non-profit social service organizations in Western Massachusetts. CHD's mission is to provide a broad range of high quality, community-oriented human services dedicated to

promoting, enhancing and protecting the dignity and welfare of people in need. Annually, 18,000 people are served by CHD's 70+ programs, which include programs devoted to providing addiction services and the provision of direct legal services for people with HIV/AIDS.

EXHIBIT B

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

BARNSTABLE, SS **NO. SJC-12224**

AIDS SUPPORT GROUP OF CAPE COD, INC.,
Plaintiff-Appellant,

v.

TOWN OF BARNSTABLE, BOARD OF HEALTH OF THE TOWN OF BARSTABLE, and THOMAS MCKEAN, in his official Capacity as Director of Public Health of the Town of Barnstable,
Defendants-Appellees.

DECLARATION OF LISA FERRARINI IN SUPPORT OF THE AMICUS BRIEF OF

I, Lisa Ferrarini, declare the following:

1. My name is Lisa Ferrarini. I am a person who injects drugs.

2. I have been using heroin since 2006.

3. My husband and I are homeless and currently sleep in a tent.

4. My husband is also a person who injects drugs.

5. I am currently a member of the Needle Exchange and Overdose Prevention (needle exchange) program at AIDS Action Committee of Massachusetts in Cambridge, MA.

6. I have been going to the needle exchange for about a year now. My husband first brought me there.

7. My husband suffers from hepatitis C, but I do not. During my time at the needle exchange I have learned to only use my own needles and how to avoid

infections. The needle exchange provides me and my husband with enough clean needles so we do not need to share. If it were not for the needle exchange I believe my husband and I would have shared needles at some point.

8. In addition to providing me with clean needles, I have also been tested multiple times for HIV and HCV by the staff at the needle exchange. Each time these tests have come back negative.

9. I recently started using heroin again after a period of sobriety. The needle exchange has been there for me when I slip and start using again, and allows me to make sure I use safely. The needle exchange has also offered me support for when I decide to go to detox.

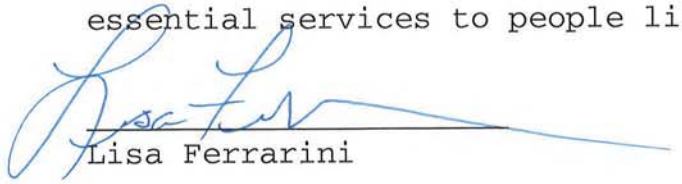
10. My husband is currently incarcerated at the Billerica House of Corrections as a result of a probation violation. He is struggling with withdrawal symptoms.

11. I am nervous for when he is released. I am sure he will start using again, and worried that he will be at risk for overdosing because his tolerance will be low.

12. The needle exchange also provides Narcan training, and gave me a supply of Narcan in case I or my husband overdose.

13. I have come to depend on the needle exchange for more than just clean needles. It has come to be a hub for me to access services I need. I have gotten food, clothes, and bus passes there. They have also connected me with other services and programs to help me find housing.

14. I believe without the needle exchange, I would have contracted hepatitis C from my husband. I think that the exchange and other programs like it provide essential services to people like me.



Lisa Ferrarini

EXHIBIT C

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

BARNSTABLE, SS No. SJC-12224

AIDS SUPPORT GROUP OF CAPE COD, INC.,
Plaintiff-Appellant

v.

TOWN OF BARNSTABLE, BOARD OF HEALTH OF THE TOWN OF BARSTABLE, and THOMAS MCKEAN, in his official Capacity as Director of Public Health of the Town of Barnstable,
Defendants-Appellees

On a Report from the Superior Court

DECLARATION OF ELIZABETH HERRIG

I, Elizabeth Herrig, declare the following:

1. My name is Liz Herrig.

2. I offer this declaration in support of the amicus brief filed by various public health *Amicus Curiae* in support of the AIDS Support Group of Cape Cod in the above-captioned matter.

3. I am a social worker and have worked in the field of addiction recovery for over 10 years. I currently work with men seeking recovery from opiate dependence. Every day, I have the privilege of hearing stories of pain and suffering -- and then the relief that comes from an opportunity to change through treatment.

4. I never knew how I would respond to an overdose until I was actually leaning over someone's prone body, listening for their breath. Adrenaline surged through my body while my brain struggled to recall every lesson about administering Narcan. Sternum rub, listen for heartbeat, listen for breath, sternum rub, listen for heartbeat, listen for breath, rescue breath, put the Narcan together, one spray in each nostril, listen

for breath, repeat. Then there was the sound. A gurgle that seeped out from deep within his throat. I couldn't tell if it sounded death or life. More of the sequence. Listen for breath. Rescue breath. Sternum rub. More Narcan? Where is the ambulance?

5. This time I was lucky. Or rather, he was lucky. I had found him lying in the melted snow, unconscious with shallow breaths. He was alone. They're always alone. Thankfully, I was near work and a team of my colleagues, all well trained, circled him. We saved his life. We didn't know his name or where he lived or if he had children or nearby family. We only knew he needed help and that we had the tools and skills to help him. He lived. Many aren't that lucky.

6. I understand that some concerns about needle exchange efforts (which I refer to as "NEPs") have been voiced. I understand some of these concerns, and can sympathize some of them. In particular, I am a mother and worry, for example, about my children finding a dirty needle in a park while playing. Yet despite this, I believe that the benefits NEPs bring to the public, and to the population that uses them, far outweigh such concerns.

7. In my experience, NEPs provide a unique opportunity to re-engage men and women that have ceased participation in healthcare. The NEPs I am familiar with in Massachusetts, some like the efforts undertaken by the AIDS Support Group of Cape Cod, in addition to providing needle access and safe disposal, provide services like counseling, case management, food services and basic medical and dental care. In this way, NEPs can provide a simple but critical point of entry back to wellness. Because needle exchange programs believe in peer advocates, and do not force an individual to change, in my experience they are successful in engaging hard to reach clients that other agencies have not been able to help.

8. I sit everyday with men, some as young as 19, who tell me they have been infected with Hepatitis C. Most of these young men contracted the disease from using a dirty needle. HEP C is avoidable but, for injection drug users, avoiding it is dependent upon access to new and clean syringes.

9. In speaking with the population I service, I have learned that buying sterile needles from a pharmacy comes with a sometimes unsustainable financial burden, as well as a large amount of shame and stigma. The average 19-year-old I talk to who has been using heroin for most of his adolescence does not have the means to pay for new and clean syringes. And without access to new syringes, he will use a needle that has been infected, or dulled, from repeated use. Dull needles, like infected ones, can come with just as much risk.

10. For example, I currently work with a client that battled endocarditis (an infection of the inner lining of the heart) that was caused by using dull, reused needles. His illness confined him in a hospital for over a month. Eventually, after two surgeries, he won his fight but was left without the ability to have children. He is 35.

11. I understand that five people a day die from an opioid overdose in Massachusetts. I work in downtown Boston near Boston Medical Center, which the media calls "Methadone Mile" or "Addict Row." One brief walk down Massachusetts Avenue in this area allows one to see why these labels have attached in the form of many young people, lost and dependent on heroin and fentanyl on the street.

12. But where I work we call this stretch Recovery Road. This past summer the agency I work for responded to 17 overdoses in this small area of Boston. Every one of these individuals was lucky: we saved their lives. We were able to administer Narcan – Narcan that the local needle exchange program provided to us. These survivors had another chance to engage in treatment and recover from their disease. As my boss reminds me, "you can't treat a dead person".

13. In my view, NEPs are beacons of hope. If a relationship can be built with an addict, and the access to treatment is there, then this person has a chance to get better. The clients I have worked with are in the depths of despair and pain. I believe that NEPs are among the few bits of light in the darkness of addiction. That bit of light can lead those suffering from addiction to a path of health and wellness, and I believe that despite all the pain and

suffering people should still have the chance to build a life free of shame. Everyone deserves to be better, and I believe that NEPs provide a critical point of entry to the path to recovery and wellness.

Dated: December 19, 2016

Elizabeth Herrig

Elizabeth Herrig

EXHIBIT D

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

BARNSTABLE, SS No. SJC-12224

AIDS SUPPORT GROUP OF CAPE COD, INC.,
Plaintiff-Appellant

v.

TOWN OF BARNSTABLE, BOARD OF HEALTH OF THE TOWN OF BARSTABLE, and THOMAS MCKEAN, in his official Capacity as Director of Public Health of the Town of Barnstable,
Defendants-Appellees

On a Report from the Superior Court

DECLARATION OF RYAN MATTHEW BEERS

I, Ryan Matthew Beers, declare the following:

1. My name is Ryan Matthew Beers.

2. I offer this declaration in support of the amicus brief filed by various public health *Amicus Curiae* in support of the AIDS Support Group of Cape Cod in the above-captioned matter.

3. I am a recovering heroin addict.

4. I am 27 years old. I was born and raised on Cape Cod, in Bourne, Massachusetts, where I live and work today. My mom is a school nurse, and my dad is a heavy equipment operator with the company that also presently employs me.

5. In high school, I was a B/C-student, and stayed out of trouble. I didn't do drugs or drink, and I was a varsity basketball player. After high school, I worked 70-80 hours a week doing landscaping and delivering pizza, all while attending classes to become an EMT.

6. On July 4, 2008, I was involved in a motorcycle accident in which I suffered a compound fracture to my right femur, along with other injuries. I was bed-ridden for eight weeks recovering from these injuries and the necessary surgeries placing a metal rod, a metal plate, and dozens of screws into my leg.

7. The doctors prescribed me a daily dose of 240mg of Percocet, an opiate painkiller. At the direction of my doctor, I took eight 30mg Percocet pills a day for well over a year. Eventually, my doctor stopped prescribing me Percocet and prescribed me a different opiate painkiller, Vicodin. This dropped me from 240mg of Percocet a day to just 60mg of Vicodin a day. This change messed me up - on the new drugs I began to get dope-sick even though I was taking other potent opioid painkillers. I recognize now that by this point I was addicted to opiates.

8. I began to purchase the 30mg Percocet pills I had previously been prescribed on the black market. I spent several years increasing my consumption and seeking other avenues to feed my addiction. At one point I was periodically traveling to other states and visiting multiple doctors to obtain large numbers of pills.

9. The street price of my pills increased to the point that I tried heroin, which was much cheaper. The first time I used heroin it was not the life-changing event that some addicts describe - I didn't immediately chase more heroin. But I was drawn to it again, and soon became a regular user.

10. During the time I was using heroin, I was approached by a filmmaker for HBO who was shooting a documentary on Cape Cod about the heroin epidemic there. I agreed to be filmed, and I am featured in that documentary, titled Heroin: Cape Cod USA.

11. I overdosed on heroin on September 13, 2013. The woman I was with was scared to take me to the emergency room or call the paramedics. Of course, she didn't have any Narcan to give me to try to save my life. She called my brother from the hospital parking lot. She told him that I was on lying on the pavement and not breathing. He told her that she needed to take me inside the ER immediately, but she didn't. Finally, a hospital security guard saw me on the ground and told ER staff, who rushed me into the hospital and gave me Narcan and CPR. They told me that I hadn't been breathing for over four minutes.

12. I was dead for over four minutes. Without getting Narcan I would have stayed that way.

13. After surviving my overdose, I went to detox and rehab out of state for six months, where I got clean and recovered. I came back to Bourne and, for 72 days, I stayed clean.

14. I relapsed in May of 2014 when my brother asked to borrow $40 from me. I knew that he was using and when he asked for the money I knew that he was going to use the money to buy heroin. Without thinking about it, even though I had been clean for about nine months, I agreed to give him the money if he got some for me too.

15. I spent the next several months using heavily. My brother got clean in August 2014, and I decided to get clean for good two days later. I haven't used heroin since then.

16. I feel lucky to have survived my heroin addiction. I was lucky not to get sick with HIV or hepatitis, and lucky not to die from it. Many friends and acquaintances of mine were not as lucky.

17. For example, one of my close childhood friends and teammates on my high school basketball team recently died from overdose in August of 2016. He overdosed four days after his 28th birthday.

18. I dated a woman for a while after I got clean in 2014. She was not a heroin user and had never done it when we were dating. After we broke up, she died of a heroin overdose in July of 2015 after doing it for the first time. One of her close friends that I got to know while we dated also recently died of a heroin overdose. These are just a couple examples of the people I know that are no longer alive because of opiates.

19. Although I reused my own needles and sometimes gave away my old needles to others, because of my EMT training and knowledge I had learned from my mom the nurse, I was very careful to never share needles. Many people I knew were not so careful.

20. I typically took my used needles to the local firehouse in plastic bags to get rid of them, claiming that I had found them. Others I knew were too scared to bring their used needles to the police station or firehouse. They were scared of being arrested for possessing drug needles. I

don't know what they did with their dirty needles, but I think that having a safe place to get rid of them would be a good thing.

21. A person very close to me, who is off heroin and clean now, contracted Hepatitis C due to sharing needles when he used IV drugs. I know that he is having a lot of health issues related to this disease, in addition to dealing with his recovery from addiction, which is hard enough on its own.

22. I currently volunteer at a detox organization in Foxboro, Massachusetts. Every two weeks I speak with detoxing addicts about my experience and my recovery. I have now been clean for over two years, which I have taken one day at a time.

23. I have personally experienced, and seen the impact on my family and friends and community, of the opiate epidemic, including heroin. I have seen the huge impact of my own addiction on my family.

24. When I was using I didn't have access to a needle exchange program like the one in Hyannis, but I believe that they provide very beneficial services to the individuals suffering with addiction. For example, access to Narcan, the medicine that saved my life, may save other lives. Also, access to clean needles can help prevent diseases like the Hepatitis C that my close friend currently suffering from.

Dated: December 16, 2016

Ryan Beers

Ryan Beers