Massachusetts Supreme Court Rules in Favor of Statewide Syringe Exchange

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The Massachusetts Supreme Judicial Court ruled last week that syringe exchange programs, such as those run by HIV service programs, community health initiatives and other social service agencies are legal and can operate without restriction under state law, reports GLBTQ Advocates and Defenders (GLAD) in a press release. GLAD's AIDS law project director Ben Klein served as cocounsel for the plaintiff.

The case leading to the ruling, AIDS Support Group of Cape Cod v. Town of Barnstable, concerned a needle distribution site run by the local advocacy group AIDS Support Group of Cape Cod (ASGCC), which was shut down by Barnstable, Massachusetts, town officials via a cease and desist order in 2015. ASGCC immediately pushed back against the letter and in a Barnstable County trial court ultimately won the right to operate legally. However, the town appealed the ruling.

During the trial, ASGCC repeatedly argued that access to clean needles is a key strategy for reducing HIV and hepatitis C transmission among people who inject drugs across the country. The group's programs also provide clients with free naloxone, a drug that can reverse fatal overdoses, HIV and HCV testing and referral to addiction treatment services.

The town initially sent the cease and desist letter after tracing the origin of some hypodermic needles that had been improperly discarded in public places to ASGCC. The order argued that ASGCC had failed to obtain approval from the town council and that its program violated a law permitting only licensed pharmacists or wholesale druggists to sell clean syringes.

The court's unanimous decision in upholding the rights of ASGCC to operate will have critical implications for the state's efforts to combat opioid addiction and the spread of HIV and hepatitis C virus (HCV), say local harm reduction advocates.

"We needed an unambiguous statement from our highest court that these programs are legal, and we go that today," said cocounsel Andrew Musgrave, director of legal services for the AIDS Action Committee of Massachusetts, another local advocacy group that promotes harm reduction.

Thanks to the ruling, moving forward, any organization or individual in Massachusetts will be able to distribute hypodermic needles and syringes without fear of arrest or shut-down, regardless of whether the entity is operated by the Department of Public Health or approved by town councils.

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