

RESOLUTION

Subject: Fentanyl Testing Strips

Submitted by: Alex Thebert, MD - Resident and Fellows Section

Referred to: Reference Committee

WHEREAS, since 2013, opioid and psychostimulant drug overdose rates throughout the country have been increasing, recently the US crossed 100,000 drug overdose deaths in 12 months^{1,2}; and

WHEREAS, these increases are largely driven by the increased use of potent synthetic opioids, such as fentanyl and fentanyl analogs^{2,3,4,5}; and

WHEREAS, the co-use of synthetic opioids with other opioids or psychostimulants could be deliberate or inadvertent, unbeknownst to the user²; and

WHEREAS, Kentucky has one of the highest death rates from opioid overdoses in the nation and since 2019 the rate of overdose deaths in Kentucky has increased over 70% from 1,316 to 2,250⁴; and

WHEREAS, in Kentucky, fentanyl was detected in over 70% of all overdose deaths⁴; and

WHEREAS, harm reduction programs are public health approaches to reduce the risks of high-risk sexual and drug-use behaviors; and

WHEREAS, harm reduction programs have limitations in the services and materials they can provide due to laws classifying what constitutes “drug paraphernalia”; and

WHEREAS, current Kentucky law classifies drug paraphernalia as “all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance”⁶; and

WHEREAS, the law makes exemptions for items exchanged at health departments, such as needles, but all other items which are distributed, not exchanged, are still considered drug paraphernalia, leaving health departments in a legal gray area⁶; and

WHEREAS, recent studies have shown fentanyl testing strips to decrease risky drug use behavior in ways that could reduce overdose deaths⁷; and

WHEREAS, studies show high sensitivity (96-100%) and specificity (90-98%) of fentanyl testing strips on street-acquired drug samples^{8,9}; and

WHEREAS, other states, such as Wisconsin, have recently passed laws exempting products which test for fentanyl and fentanyl analogs from being classified as “drug paraphernalia”^{10,11}; and

WHEREAS, by allowing health departments more latitude in distribution of select items previously deemed paraphernalia they can provide more comprehensive harm reduction services; now, therefore, be it

RESOLVED, that KMA support exempting materials distributed for the appropriate use in evidence-based harm reduction programs from being classified as “drug paraphernalia.”

References:

- ¹ Products - Vital Statistics Rapid Release - Provisional Drug Overdose Data. Published May 5, 2022. <https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm>
- ² Mattson CL. Trends and Geographic Patterns in Drug and Synthetic Opioid Overdose Deaths — United States, 2013–2019. *MMWR Morb Mortal Wkly Rep.* 2021;70. doi:[10.15585/mmwr.mm7006a4](https://doi.org/10.15585/mmwr.mm7006a4)
- ³ HAN Archive - 00438 | Health Alert Network (HAN). Published September 21, 2021. https://emergency.cdc.gov/han/2020/han00438.asp?ACSTrackingID=USCDC_1026-DM45245&ACSTrackingLabel=December%202020%20Drug%20Overdose%20Updates&deliveryName=USCDC_1026-DM45245
- ⁴ KY Office of Drug Control Policy 2021 Overdose Fatality Report. <https://odcp.ky.gov/Reports/2021%20Overdose%20Fatality%20Report%20%28final%29.pdf>
- ⁵ O'Donnell JK. Deaths Involving Fentanyl, Fentanyl Analogs, and U-47700 — 10 States, July–December 2016. *MMWR Morb Mortal Wkly Rep.* 2017;66. doi:[10.15585/mmwr.mm6643e1](https://doi.org/10.15585/mmwr.mm6643e1).
- ⁶ Kentucky Legislature: KRS 218A.500. <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=51015>
- ⁷ Fentanyl Test Strips • LAPP. LAPP. Published June 1, 2021. <https://legislativeanalysis.org/fentanyl-test-strips-2/>
- ⁸ Green TC, Park JN, Gilbert M, et al. An assessment of the limits of detection, sensitivity and specificity of three devices for public health-based drug checking of fentanyl in street-acquired samples. *International Journal of Drug Policy.* 2020;77:102661. doi:[10.1016/j.drugpo.2020.102661](https://doi.org/10.1016/j.drugpo.2020.102661)
- ⁹ Fentanyl overdose reduction checking analysis study. <https://idpc.net/publications/2018/02/fentanyl-overdose-reduction-checking-analysis-study>
- ¹⁰ Wisconsin Legislature: 961.571. <https://docs.legis.wisconsin.gov/statutes/statutes/961/vi/571>
- ¹¹ Wisconsin Legislature: SB600: Bill Text. <https://docs.legis.wisconsin.gov/2021/related/proposals/sb600>