

## FENTANYL TEST STRIPS

### A Proposal to Remove Legal Barriers to Reduce Drug Overdoses in Alabama by the Use of a Drug Testing Tool

#### SUMMARY

- A proposal has been made to amend existing drug paraphernalia laws to allow people who use drugs to use fentanyl test strips (FTS) to test their drugs for fentanyl before use. The use of FTS will not promote the illegal use of drugs but may deter some users from taking a specific drug. These changes will not weaken Alabama's existing controlled substances laws and the legislative appropriation of funds is not required in order to amend the legislation.
- Fentanyl is the greatest drug overdose threat facing the nation and Alabama today. In the 12-month period ending April 2021, more than 100,000 Americans died from a drug overdose, including over 1000 Alabamians. In Jefferson County, as of January 4, 2022, there were 367 overdose deaths in 2021, 291 of which were specifically caused by fentanyl. Fentanyl is 10-50 times more potent than heroin. A lethal dose of fentanyl is only 2-3 milligrams. The average time for an overdose to occur from heroin is 20-30 minutes but only 2-3 minutes for fentanyl.
- Attitudes toward the use of fentanyl test strips are changing across the country because of the availability of new tools and because of the increasing threat posed by fentanyl. The federal government has identified the use of FTS as a drug policy priority and has changed federal law to allow for the use of federal grants and funding to support the purchase/use of FTS. Currently, nine states have legalized/decriminalized FTS, 10 states are considering changes to allow for FTS, and seven states permit the use of FTS despite existing drug paraphernalia laws.
- Fentanyl test strips have proven extremely reliable in the detection of fentanyl. They are relatively inexpensive (generally \$1 to \$2 per strip), portable, and easy to use. Making users aware of the presence of fentanyl before ingesting the drug allows them the ability to take actions that will decrease overdoses and reduce the number of deaths and the levels of devastation experienced by families and neighborhoods. Studies have shown that users, when aware of the presence of fentanyl, are much more likely to change their behaviors to ensure there are other measures in place to prevent an overdose, to include not taking the drug.
- Reducing the number of overdoses will reduce the impact on emergency/first responder departments and medical/health organizations.
- The distribution of FTS by treatment/harm reduction organizations will provide an opportunity for treatment professionals to engage drug users and offer counseling and other substance use disorder services.
- Fentanyl test strips are a proven harm reduction tool. Allowing the sale and use of FTS will be a significant step towards reducing fatal and non-fatal drug overdoses in Alabama and the saving of lives.

*This paper was prepared jointly by the Rescue and Law Enforcement Committees of the Alabama Opioid Overdose and Addiction Council, January 2022.*



## **FENTANYL TEST STRIPS**

### **A Proposal to Remove Legal Barriers to Reduce Drug Overdoses in Alabama by the Use of a Drug Testing Tool**

#### **Overview**

A proposal to amend Alabama's drug paraphernalia laws has been offered for the 2022 legislative session. This amendment will change the definition of drug paraphernalia by modifying the language that makes it unlawful to use tools to test for and detect the presence of fentanyl. The proposed amendment responds directly to the threat posed by fentanyl and is specific to the use of fentanyl test strips (FTS). Implementation of this amendment will not require the legislative appropriation of funds.

The proposed amendment will not weaken Alabama's existing controlled substances laws or promote the illegal use of drugs but will allow for the use of a proven harm reduction tool to reduce the number of overdoses and overdose deaths plaguing the citizens of Alabama.

Under Alabama's current controlled substances laws, it is unlawful for a person to use, or possess to use, drug paraphernalia for the purpose of testing or analyzing a controlled substance, and a violation of this law is a Class A misdemeanor. Under current law It is also unlawful to deliver or sell these items knowing they will be used in violation of the controlled substances laws.

When the Alabama controlled substances laws were written there was not a tool like FTS nor was there the threat posed to our communities from fentanyl. Today, that threat continues to worsen as fentanyl is more commonly being mixed with other drugs, such as cocaine or methamphetamine, or being sold to individuals who don't know that fentanyl is present. The presence of fentanyl in many counterfeit pills, a rising threat across the country and in Alabama, only heightens this threat. The use of FTS by persons who use drugs - prior to using the drug - would allow them to know if fentanyl was present and make choices that would reduce the chances of overdose and overdose death.

#### **Fentanyl Threat in Alabama**

Recent surges in opioid overdoses nationwide have been driven predominantly by illicitly manufactured synthetic opioids, including fentanyl. Fentanyl is a powerful synthetic opioid medication approved for the treatment of severe pain. Fentanyl is 10-50 times more potent than heroin – a lethal dose of heroin can be as low as 30 milligrams, while 2-3 milligrams of fentanyl can be lethal. The average time for a fatal overdose to occur from heroin is 20-30 minutes; for fentanyl it is 2-3 minutes. Fentanyl is increasingly present in the illicit drugs used in our communities but users often aren't aware of its presence. This lack of awareness increases the risk of fatal and non-fatal overdoses. Accidentally ingesting fentanyl-laced heroin, cocaine, methamphetamine, or other drugs – including counterfeit pharmaceutical pills – is the single greatest risk to people who use illicit drugs.

Drug overdose deaths in the United States topped 100,000 for the 12-month period ending in April 2021. Alabama experienced more than 1000 overdose deaths during that same period, an increase of approximately 30 per cent over the previous year. Data from Jefferson County, which has the most current data available, showed that, as of January 4 2022, there had been 367 overdose deaths in the county in 2021, 299 of which were attributed to opioids and 291 specifically to fentanyl. Clearly, fentanyl poses the greatest drug overdose threat to the citizens of Alabama.



## **Fentanyl Test Strips Around the Country**

Attitudes concerning the use of FTS across the country are changing. The American Medical Association advocates that decriminalizing FTS is necessary and encourages all states to consider introducing FTS legalization bills during the 2022 legislative session.<sup>1</sup> At the federal level, the Office of National Drug Control Policy has identified the increased use/distribution of fentanyl test strips as a drug policy priority.

At the state level, as of October, 2021, nine states/territories – Alaska, Colorado, Maryland, Nebraska, New York, South Carolina, Virginia, Washington D.C., and Wyoming – have legalized/decriminalized the use of FTS. Thirty-two states have drug paraphernalia laws that include drug testing equipment. However, 10 of these states<sup>2</sup> currently are considering changes to their existing laws to allow for the use of FTS and some states<sup>3</sup> permit the use of FTS despite having drug paraphernalia laws that include testing equipment.

In the Southeast, the use of FTS covers the range of options. Georgia, South Carolina, and North Carolina allow the use and sale/distribution of FTS. Mississippi, Louisiana and Florida have efforts on-going to consider changes to their drug paraphernalia laws but no specific legislative proposals are in place. Tennessee and Arkansas do not allow the use of FTS.

## **FTS Availability, Price, Reliability, and Ease of Use**

There are a number of FTS manufacturers worldwide. FTS are readily available and even can be obtained over the internet. In states where laws allow the use of FTS, they are often available from local pharmacies as well as from treatment/harm reduction organizations. Internet prices for FTS generally range from \$1 to \$2 per strip, although some are available in the \$3.50 per strip range. Lower prices when purchased in bulk are available.

Federal law was changed as of April 2021 to allow for federal grants/funding to be used for the purchase/distribution of FTS.

Fentanyl test strips have proven to be extremely reliable in the identification of fentanyl. FTS detect the presence of fentanyl but do not measure for the quantity or potency of fentanyl in a specific drug sample. A 2021 study<sup>4</sup> published in the International Journal of Drug Policy tested four commercially available brands. All four brands accurately detected fentanyl at the levels most commonly found in illicit drugs. While a very effective harm reduction tool, fentanyl test strips are not perfect in detecting the presence of fentanyl and have produced false results.

Fentanyl test strips were originally developed to detect fentanyl in urine. They are often compared to pregnancy tests in terms of ease of use, how they work, and how the results are obtained by the user. However, the major use of FTS today is to detect the presence of fentanyl in illicit drugs prior to use. In order to test for fentanyl a small portion of the drug (about the size of a match head) is added to water

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<sup>1</sup>[www.ama-assn.org/helath-care-advocacy/advocacy-update/nov-19-2021-state-advocacy-update](http://www.ama-assn.org/helath-care-advocacy/advocacy-update/nov-19-2021-state-advocacy-update). Accessed December 29, 2021.

<sup>2</sup> Arizona, Delaware, Kansas, Maine, Massachusetts, Minnesota, Nevada, New Mexico, West Virginia and Wisconsin have bills pending that would exclude FTS from drug paraphernalia laws.

<sup>3</sup> These states include California, Connecticut, New Jersey, Ohio, Texas, Utah and Washington.

<sup>4</sup> "Selectivity and Sensitivity of urine fentanyl test strips to detect fentanyl analogues in illicit drugs," by Marianne Skov-Skov Bergh, Ase Marit Leere Oiestad, Michael H Baumann, Inger Lise Bogen. International Journal of Drug Policy 90 (2021).



and dissolved and the strip is dipped into the mixture. Results are returned in approximately five minutes. If the strip shows one line, fentanyl is present; two lines indicate no fentanyl. If no lines appear the test is invalid. The user does not have to provide their drugs to someone else to be tested or “lose” a major portion of their drugs, making it more likely they will use FTS to test their drugs before ingesting them.

### **Impact of Using FTS**

While FTS may not prevent a person from using drugs it can prevent a fatal or non-fatal overdose by causing that user to take actions to prevent an overdose. These actions may include: discarding that particular sample of drug; making sure they’re not alone when they are using drugs; using less of the drug; or using the drug more slowly. For individuals who have no desire to take fentanyl, being alerted to the presence of fentanyl mixed with other drugs such as cocaine or methamphetamine makes it more likely they will not take that drug. Distributing FTS will provide treatment agencies and organizations an opportunity to reach drug users and offer education, treatment and healthcare services. Reducing the number of overdoses will reduce the impact on emergency/first responder departments and medical/health organizations.

A 2019 study<sup>5</sup> conducted in North Carolina showed that 81% of those with access to FTS routinely tested their drugs before use. This same study found that individuals who used FTS before ingesting a drug and received a positive result for the presence of fentanyl were five times more likely to change their behavior before ingesting the drug, including not using the drug, using less of the drug, or ensuring that they had access to naloxone in the event of an overdose.

Utah began a program in June 2020 to distribute FTS to persons who use drugs. As of March 31, 2021, over 10,000 FTS were provided in 4,617 client encounters. Based on the initial results of this program<sup>6</sup>, the use of FTS led to changes in drug use behavior that helped to prevent overdoses. This program in Utah has been a relatively low-cost intervention method for preventing fentanyl overdoses and encouraging harm reduction behaviors among people who use drugs.

### **Conclusion**

Fentanyl test strips are a relatively inexpensive, portable and easy to use tool to detect the presence of fentanyl in illicit drugs prior to the ingestion of that drug by a user. The potential of FTS to alter the actions of drug users has been proven through evidence-based studies. FTS will not promote the use of drugs but, instead, may deter users from taking a specific drug if they know that fentanyl may be present. This increased level of awareness will result in a decreased number of overdoses, reducing the number of deaths and the devastation to families and neighborhoods that accompany these losses. FTS distribution will also provide an opportunity for treatment organizations to engage drug users and provide services.

Passing this amendment and allowing the distribution and use of fentanyl test strips will be a significant step towards the goal of reducing fatal and non-fatal drug overdoses in Alabama and saving lives.

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<sup>5</sup> “Fentanyl test strips as an opioid overdose prevention strategy: Findings from a syringe services program in the Southeastern United States.” Nicholas C. Peiper, Sarah Duhart Clarke, Louise B. Vincent, Dan Ciccarone, Alex H. Kral, Jon E. Zibbell. International Journal of Drug Policy, September 28, 2018.

<sup>6</sup> “Utah Drug Monitoring Initiative: Fentanyl Report.” Utah Department of Health and Utah Statewide Information and Analysis Center. Report Number SIAC-2021-134. June 2021.



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