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Pennsylvania House Judiciary Committee

Public Hearing on HB 1393 – Overdose Deaths & Fentanyl Test Strips

Monday, January 10, 2022 - 10 am - Noon

First, I would like to thank the Pennsylvania House Judiciary Subcommittee on Crime & Corrections for holding this hearing and for the opportunity to focus on Fentanyl Test Strips as a harm reduction tool and its relationship to treatment and recovery support services. I also want to thank Majority Chairman Kauffman, Minority Chairman Briggs as well as Subcommittee Majority Chairman Jozwiak, Minority Subcommittee Chair Dawkins and all the members of the Judiciary Committee for the opportunity to focus on these important issues here today.

My name is Bill Stauffer. I am a lifelong resident of Pennsylvania and a person in recovery from addiction for over 35 years. Recovery means to me that I have had a normal and productive life since I got into recovery at age 21. I received publicly funded addiction treatment in the Lehigh Valley. It is important for me to note here today as I sit before you that I was on a trajectory that would have placed me more centrally in the matters of Crime & Corrections that this Committee deals with, but fortunately for me, help changed the course of my life. A central theme of many recovery stories you will hear is how we have regained our lives, restored ourselves to productivity and became civically engaged members of our communities. It is a theme that is present in my own story. It is a paradox that while addiction is one of our societies greatest challenges and drives costs across all of our institutions, people like me in recovery contribute significantly to the fabric of our communities. My work in the area of addiction and recovery has quite literally been my focus over the course of my entire adult life.

I have run outpatient and residential treatment programs and have been involved in policy matters related to substance use disorders and recovery here in Pennsylvania and federally over several decades. I currently serve as the Executive Director of the Pennsylvania Recovery Organizations Alliance, the statewide [recovery community organization](#)¹ (RCO) of Pennsylvania (PRO-A).

PRO-A is a non-profit, grassroots organization dedicated to supporting individuals in recovery and educating the public on addiction and recovery, including opioids. We provide no direct care services. Our mission is to mobilize, educate and advocate, in order to eliminate the stigma and discrimination toward those affected by substance use disorders to ensure hope, health and justice for individuals, families and those in recovery. This includes the support of many harm reduction strategies that protect the health and dignity of a large majority of people that may not access treatment. PRO-A was the first RCO to support harm reduction efforts in Pennsylvania, led by the Pennsylvania Harm Reduction Coalition (PAHRC).

Nearly every facet of state, county and local government expenses are driven by the costs of addiction and its devastating impacts on our families and communities. Accidental overdoses are the leading cause of death in some age groups. Despite some earlier progress, Pennsylvania continues to be ravaged by overdose deaths, in part result of the COVID pandemic and related issues, [increasing 16% over the prior year](#)² at a rate of about half the increase experienced on

average nationally. Pennsylvania is the state [with the eighth most drug overdose deaths per capita](#)³ in 2020. Last year, there were 40 fatal overdoses per 100,000, or a total of 5,172 drug overdose-related deaths.

Committee members, I am here today as I know that Pennsylvania has an addiction problem. Addiction impacts roughly one in three of our families. There is no one in our state whose life has not been impacted in some way by addiction. In respect to overdoses, I can personally attest to the fact that someone in my broad social circle has lost a family member or friend nearly every week for the last decade. Addiction, including opioids resulting in accidental overdoses have killed more people I personally know than all other causes of mortality combined. I am in no way unique; my experience of such devastating loss is tragically common. Increasing our tools to address these challenges, including harm reduction strategies like fentanyl test strips must be part of our strategy moving forward to change this terrible narrative.

We must start with the understanding that people like me can and do recover when we have an opportunity to do so, and we must understand that addiction, including opioid use disorder is unfortunately commonplace yet highly stigmatized. These are not “those people, they are “our people.” Our family members, our friends, our neighbors, and our community members. They are our people, and we must help save their lives.

Fentanyl test strips are a vital tool we must expand the use of to keep people alive so they can have the opportunity to get into recovery and have a normal life like I have had the opportunity to have.

It is really that simple.

The Problem

Fentanyl and fentanyl related substances are associated with a higher risk for overdose, especially when combined with other licit and illicit substances, and have become more prevalent across our state. Fentanyl Test Strips (FTS) are a vital tool to detect the presence of these substances. Yet, these tools are currently listed in Pennsylvania’s controlled substance act as drug paraphernalia and can result in criminal penalties for possession or distribution . My testimony here today is on how fentanyl and fentanyl related substances are increasingly prevalent in illicit drug sold on our streets, which makes it necessary at this time to legalize the use and promotion of FTS as an important tool to save lives.

What Are Fentanyl Test Strips?

Fentanyl Test Strips (FTS) are [relatively cheap](#)⁴ (about \$1), thin strips similar to at home pregnancy tests that can detect the presence of fentanyl and several fentanyl analogs, including carfentanil.

- They are [reliable when used properly](#)⁵. They are most effective when dipped in a solution of the substance tested and left there for two to five minutes before interpreting the results.
- It is possible to use them to test residue, however, this is not the most effective way to use FTS. Residue is not always representative of the entire sample, which increases the risk for getting a false negative test if the residue does not contain fentanyl or one of the ten fentanyl analogues these tests are able to detect. Fentanyl is not always evenly distributed through each sample as it is mixed in for sale on the street, testing residue may not provide an accurate result in respect to the presence of fentanyl or fentanyl analogues.

- [Studies have found](#)⁶ that FTS can be cross reactive when methamphetamine is present in the sample, meaning that when methamphetamine is present in the sample it can result in a false positive. This has also occurred with the presence of other drugs, such as [MDMA](#)⁷.
- Current FTS technology can detect the presence of fentanyl and many common fentanyl analogues but not the potency of these drugs when present in the sample. This means that the user cannot tell how strong the drug is, but only if one of these substances are in their drugs.
- People that use fentanyl test strips may also benefit from education on how to properly test substances, although it is not difficult to do and it is information that can be easily provided. Test strip distribution should include access to basic education and relevant strategies that empower individuals to protect their health and promote safety.
- Educating people on how to use these tools is not currently legal and can result in criminal penalties including fines or imprisonment as delineated in 35 P.S. § 780-13 (34):

(34) The placing in any newspaper, magazine, handbill or other publication or by written or electronic means, including electronic mail, Internet, facsimile and similar transmission, any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part is to promote the sale of objects designed or intended for use as drug paraphernalia.

Fentanyl Has Largely Replaced Heroin in Pennsylvania's Illicit Drug Supply

As noted in the 2019 New York Times article "[In Cities Where It Once Reigned, Heroin Is Disappearing](#),"⁸ the supply of heroin has dramatically decreased along the eastern seaboard. Synthetic fentanyl, which is much cheaper to produce and distribute than heroin, has all but replaced it. These opioids, in comparison to naturally occurring opiates like morphine and heroin are more potent and deadly. People that use these substances are often attracted to stronger drugs, and those with high tolerances can and do die when they are exposed to pure fentanyl or other more potent synthetic opioids like carfentanil.

This has deadly ramifications in several ways.

- Opioid naïve users (either newer users who do not have higher tolerance to opioids or those who have undergone detox, short-term treatment, or are leaving correctional facilities) are at significantly higher risk than others in respect to accidental overdose.
- Our street drug supply is contaminated with a variety of dangerous substances, including opioids so powerful and pure that they can kill even a seasoned user instantly.
- This alone makes a strong case for the use of fentanyl drug testing strips as a tool that can be used to determine the risk associated with using an illicit substance and the prevention of accidental overdose.
- We should be actively working to develop tools that can determine the potency of fentanyl and fentanyl analogs so that users can also determine if the level of purity of these substances is likely to be deadly.

Drug Users Often Use Multiple Substances

There has been significant focus on what is commonly termed the opioid crisis which is in reality an addiction crisis. Persons who are opioid addicted most typically use multiple substances. As noted in [a recent journal paper](#)⁹ on polysubstance use and the US Opioid Crisis notes, more than 90% of individuals with OUD used more than two other substances within the same year, and over

25% had at least two other substance use disorders along with opioids. This has two important considerations in respect to matters in front of the subcommittee today:

1. Harm reduction tools such as FTS as part of the efforts to keep people alive and engage persons in treatment and recovery support services are critically important to supporting people in the recovery process, but should also be considered in combination with interventions that address the full spectrum of substance use needs of persons who are addicted.
2. As most addicted persons are using multiple substances, FTS test strips are a tool that focuses on the presence of fentanyl and does not detect the presence of other types of adulterants. It is important that this information is clear so that people who use this tool understand what these test strips can and cannot do.

It may be worth considering a language change to ensure that efforts to remove this tool from the list of prohibited products explicitly permit the use of other types of testing strips that could detect the potency of adulterants in anticipation of the development of such tools in the future.

Fentanyl Is Showing Up in Our Illicit Stimulant Drug Supply

Patterns of drug use are constantly changing and have historically shifted back and forth between stimulant class drugs and opioid class drugs as drugs being used widely by persons who are using drugs. Over the last few years, we have seen societal shifts in drug use patterns from opioids to stimulant drugs such as cocaine and methamphetamine. The 2020 DEA Philadelphia Field Division report on illicit stimulant availability has found that cocaine availability increased substantially between 2017 and 2019; the total amount of cocaine seized nearly tripled, and the average weight per seizure more than doubled. DEA methamphetamine seizures in Pennsylvania as considered by total weight of methamphetamine seized, and average weight per methamphetamine seizure clearly demonstrate increased methamphetamine availability in Pennsylvania in recent years.

While this is occurring, the [DEA is also seeing](#)¹⁰ an increase in co-occurrence of cocaine and fentanyl in street drugs. They believe that cocaine is being used as an adulterant to heroin and/or fentanyl, versus fentanyl being added to the cocaine supply deliberately. Dr Nora Volkow, who heads the National Institute of Drug Abuse [noted recently](#)¹¹ that contamination of street drugs is becoming more commonplace and that people are often consuming fentanyl "unbeknownst to them," and that this is a significant contributing factor in overdose deaths. A recent article in [Current Opinions in Psychiatry](#)¹² found that fentanyl and fentanyl contaminated street opioids in the Eastern US are being sold as heroin, in the Western US, street opioids containing fentanyl are being sold as fentanyl. This highlights the importance of developing a fentanyl testing product for personal use that can determine potency.

A person who purchases what they believe to be cocaine or methamphetamine on the street but gets fentanyl contaminated drugs is at severe risk for overdose. These cases continue to escalate here in [Pennsylvania](#) and nationally. Tools to check for the presence of fentanyl in street drugs are vital and will help save lives. We wish to note that as we move forward, it would be prudent to not only legalize FTS, but we would recommend making these test strips and education about their use broadly available to users of illicit street drugs beyond opioids as contamination or adulteration of non-opioid street drugs is becoming more commonplace.

The Use of Harm Reduction Tools in The Development of Therapeutic Alliance

As noted at the beginning of our testimony, PRO-A was the first recovery community organization in the state to support harm reduction strategies, including Fentanyl Test Strips. One of the reasons that we have supported such strategies is that they are vital elements in keeping people alive until they can get into recovery.

We also know that engagement and the formation of a therapeutic alliance is a critical element in getting a person to seek help for a substance use disorder. The distribution of FTS is also an important strategy to connect with persons who are using street drugs and engage them in conversations about getting additional help, including treatment.

Ensuring that recovery and harm reduction organizations have such tools to hand out to people who use drugs to assist workers in these settings to form a strong enough connection with them to begin to discuss opportunities for treatment and recovery support services.

Recommendations

PRO-A, the statewide recovery community organization of Pennsylvania supports HB 1393 and its purpose to remove fentanyl test strips for personal use from the list of equipment, products, and materials that a person can be charged a crime to possess or promote. We also think that some helpful things to consider moving forward would include discussions including:

1. Considering language to explicitly permit the use of other types of test strips that determine potency and not just the presence of fentanyl, other fentanyl analogues, and other substances in anticipation of such new testing tools as they are develop.
2. Ensure that it is legal to educate people on the use of FTS.
3. Considering ways to expand public education on how to use fentanyl test strips so that persons who use drugs can learn how to properly use these tools to avoid accidental overdose.
4. Ensure that distribution and education about FTS includes drug use populations beyond those using opioids as their primary substance of use. Fentanyl and fentanyl analogues are increasingly being found in other street drugs, including stimulants such as cocaine and methamphetamine.
5. Use multiple methods of distributing for FTS. Police departments are being used successfully in other states, but also get testing supplies out to groups who are more closely working with persons using drugs like harm reduction and recovery community organizations. This may assist in distribution that people who use drugs may find more accessible and easier to trust as they may not easily trust law enforcement or other governmental human service organizations.

Thank you,



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Citations

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