

Date: January 28, 2022

From: Daniel Warren, MD

Ref: Support for excluding fentanyl test strips from the definition of “drug paraphernalia in HB 2277

House Judiciary Committee

Chair Warren and Members of the Committee:

Good afternoon, Chair Warren and Members of the Committee. My name is Daniel Warren. I am a physician in Wichita, Kansas, where I practice in the field of addiction medicine. I am writing to you in regarding HB 2277.

I am the medical director of an opioid treatment program (“methadone clinic”) as well as a treatment provider at a federally-qualified health center (FQHC). I spend the entirety of my medical practice providing treatment for people with disordered opioid use. Over the last two years, I have seen a transformation in the patterns of opioid use in my patient population—a change that has been reflected in our state’s vital statistics information. The change started with a trickle, and it is now a tidal wave. Fentanyl and similar synthetic opioids have replaced all other opioids—they are more available, less expensive, and much less safe. And they are killing Kansans in record numbers.

This transformation is still unknown to many who are using these synthetic opioids. I see patients who believe they are using heroin or pharmaceutical opioid pills. They are shocked to learn that their drug tests are negative for those substances and positive for fentanyl. This pattern is not restricted to people who use opioids—as we have seen in Wichita, people using cocaine are at risk, and if patterns in Missouri predict what will happen in Kansas, we will soon see a huge increase in methamphetamine poisoned with fentanyl.

And poisoning is the right word for this. We can and should have intense discussion about the relative safety of any illicit substance use—the drugs are illegal, after all, with private and public safety being the primary reasons for their criminalization. But we should not get caught flat-footed in the belief that drug use is either “safe” or “unsafe”. There are degrees of safety, and as my patients have proved over and over, when provided with salient information about the risks of their behavior, they are willing to make different choices in order to limit those risks. The fentanyl poisoning epidemic has taken away the ability to make an informed choice, because Percocet is no longer Percocet; heroin is no longer heroin; cocaine is no longer cocaine. The technology to produce synthetic opioids, combined with the drive to profit at all costs, has created a drug use milieu that drastically increases the vulnerability of all people who use drugs.

Without access to basic knowledge about the substances they are using, Kansans who use drugs, whether recreationally or as part of an addiction, are much less safe than they were even two years ago. We have tools to deliver more safety, one of which is consumer fentanyl testing. Test strips are simple, inexpensive, and rapidly able to detect the presence of fentanyl in a drug sample. Armed with knowledge about the fentanyl status of a drug sample, the person may make different safety choices: choosing to use the drugs with someone else nearby; making sure naloxone (Narcan) is available; using a smaller amount or in a safer method; or not using at all.

Fentanyl test strips, according to state law, are drug paraphernalia. As used for consumer testing, these test strips were not conceived of when the paraphernalia code was written initially. I strongly encourage you to update it with HB 2277. By excluding test strips from the paraphernalia code, we will allow consumers and community organizations to possess and distribute this tool without incurring criminal charges in the effort of saving a life.

Sincerely,

Daniel Warren, MD