



STATE REPRESENTATIVE

JESSE JAMES

October 20th, 2021

Testimony of Representative James in favor of AB 619

Thank you Chairman Spiros and other committee members for hearing this important legislation-legislation I believe will save lives. I want to thank my fellow colleagues who introduced this legislation with me, Rep. Ortiz-Velez, Rep. Zimmerman, Sen. Wanggaard, and Sen. Taylor.

Let's talk about fentanyl. The Center for Disease Control and Prevention categorizes fentanyl as a synthetic opioid that is up to 50 times stronger than heroin and 100 times stronger than morphine. There are two types of fentanyl: pharmaceutical fentanyl and illicitly manufactured fentanyl. Both are considered synthetic opioids.

Fentanyl is often added to other drugs because of its extreme potency, which makes drugs cheaper, more powerful, more addictive, and more dangerous. We have seen a wide range of this, from marijuana, meth, cocaine, and heroin laced with fentanyl. We have even seen a liquid form of fentanyl in eye drops, nasal sprays, dropped onto paper, and in small candies.

Fentanyl is becoming a major contributor to fatal and nonfatal overdoses in the U.S. Just imagine you are thinking you're buying whatever your drug of choice is to get your fix. Unluckily for you, it's laced with fentanyl, and you unexpectedly overdose. You have no Narcan on hand, since you weren't anticipating needing it. You may dial 911 in hopes to get police on the scene in time with some Narcan or an ambulance with a large injectable dose to revive you. On scenes where I have been present, we as officers may not even carry enough Narcan to help, but we do what we can to keep people alive and breathing.

Fentanyl can be added to simple everyday items. I want to share a story of a young man from the Chippewa Falls area who purchased what he thought was a dietary supplement in powder form from China. It is believed he opened the powder on the way home and taste-tested it. He arrived home and his mother heard a huge crash and tires squealing in the driveway. The young man died from the overdose as he floored the accelerator and came to a halt, smashing into the garage.

You can't see fentanyl, you can't smell fentanyl, and you can't taste it. It is impossible to know if any drug has been laced with fentanyl. This is why it is easy for so many to overdose on it, whether using it purposefully or accidentally.

This young man could not test this substance because fentanyl testing strips are considered drug paraphernalia in Wisconsin and it would be a crime. This legislation would decriminalize fentanyl test strips so that any substance could be tested to make sure fentanyl isn't present, illicit or not. Fentanyl test strips are a valuable, lifesaving, and inexpensive tool that can give results in approximately five minutes –



STATE REPRESENTATIVE

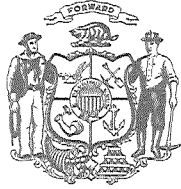
JESSE JAMES

which can be a matter of life or death. These strips are a presumptive test and do not necessarily tell the quantity of fentanyl, but can at least tell if it is present or not. Visually, these tests are similar to a pregnancy test: one line identifies if fentanyl is present and two lines if it is not.

There has also been a recent uptick in the manufacturing of synthetic opioid pills. We know China is sending all of the manufacturing materials to Mexico and the pills are made and laced with fentanyl. We have seen an increase right here in Wisconsin.

Wouldn't it be unfortunate if a high school student got their hands on some pills to help with a sport injury to dull their pain and the medicine was laced with fentanyl instead? Instead of OxyContin, they got fentanyl. Overdoses like this are happening here, right now, today. By legalizing fentanyl test strips, those who may choose this route would at least have an opportunity to test what they use first. We have the chance to take a step forward in ending the opioid crisis and the increase in overdose deaths happening statewide and nationwide. It might not be the end all, be all solution, but saving lives should never be a partisan issue or up for debate.

Let's start with this.



Van H. Wanggaard

Wisconsin State Senator

October 20, 2021

Testimony on Assembly Bill 619

Thank you Chairman Spiros, and committee members for hearing Assembly Bill 619 today. Assembly Bill 619 (AB 619) is an important bill that will help save lives, and I appreciate Representative James working with me on this.

Earlier this year I testified before this Committee in favor of a bill that would increase the penalties for manufacturing, distributing, and delivering fentanyl and fentanyl analogs, and I want to thank you, as a committee, for approving that bill. I have authored this bill for many the same reasons I authored that bill.

As we all know, the overall number of overdose deaths involving opioids has risen due the skyrocketing availability and use of synthetic opioids, mainly fentanyl. Sadly, a large number of the people that overdose on fentanyl, have no idea that they are actually ingesting it. And not only are illegal drugs like cocaine, and heroin are being laced with fentanyl, but prescription drugs like Xanax and Oxycodone are as well.

Fentanyl testing strips are little pieces of paper that identify the presence of fentanyl in injectable drugs, powders, and pills. In Wisconsin, these strips are considered drug paraphernalia, making them illegal to possess. This bill would change that, and allow anyone to possess them.

This will save lives. A study was done in 2018 where 81 young adults, who reported using illicit drugs in the past 30 days, were provided testing strips. Of those, 31 of them received at least one positive result. Participants that received a positive result reported that they would be less likely to engage in risky behavior.

Again, thank you for your consideration of Assembly Bill 619. And, I urge your support.

Serving Racine and Kenosha Counties - Senate District 21

State Capitol, P.O. Box 7882, Madison, WI 53707-7882 • (608) 266-1832 • Toll-free (866) 615-7510
Sen.Wanggaard@legis.wi.gov • SenatorWanggaard.com



LENA C. TAYLOR

Wisconsin State Senator • 4th District

HERE TO SERVE YOU!

**Testimony of State Senator Lena C. Taylor
Assembly Committee on Criminal Justice and Public Safety
AB 619/SB 600
October 20, 2021**

Chairman Spiros, Vice-Chair Horlacher, and Members of the the Assembly Committee on Criminal Justice and Public Safety, thank you for the public hearing on AB 619 relating to decriminalizing fentanyl testing strips.

Drug abuse is not new. From morphine to “molly”, there have been any number of medical and illicit substances that have commanded our attention. We’ve been given a front row seat to observe the devastating impact they have had on our community. Just when you think you’ve see it all, along comes Fentanyl. Classified as synthetic opioid, Fentanyl serves as a “Jack of all trades” in the drug game.

According to the National Institute on Drug Abuse, Fentanyl is a Schedule II prescription drug. It is typically used to treat patients with severe pain or to manage pain after surgery. It is also used to treat patients with chronic pain who are physically tolerant to other opioids. It comes in the form of a lozenge, oral tablet, oral spray, IV, or as a patch. But then, there is the other side of the coin.

Fentanyl can be used or put in just about every type of street drug that exists. It’s 50-100 times more powerful than morphine. The drug can be obtained by diverting it from legitimate medical users. In addition, discarded Fentanyl patches can still contain significant amounts of the drug in a gel form. Abusers eat, smoke or figure how to inject the left over gel. In other instances, Fentanyl can be manufactured illegally in homemade drug labs.

Once in the hands of drug dealers, it can be found in everything from heroin or cocaine, or formed into pills and sold on the street. Buyers often think they are buying oxycodone or other pills that are frequently abused.

Fentanyl is also cheap to make, flooding communities across the country, and is deadly. Between 2015 and 2020, the number of overdose deaths involving Fentanyl in Milwaukee county went from 8% to 73%. In 2020, of the 544 overdose deaths in Milwaukee County, 400 were due to Fentanyl. In the last 4 years, this drug is now showing up in nearly 50% of all deaths connected to drug overdoses. The average drug user often has no idea that they may have recreational drugs that are mixed with Fentanyl.

Understanding the increased risk of death associated with the drug, most users would likely avoid products/activities that contain Fentanyl. So, how do we address this problem?



LENA C. TAYLOR

Wisconsin State Senator • 4th District

HERE TO SERVE YOU!

Certainly, it would be great if we could get people to stop using drugs. While we are working on that, we do have another way to stop people from dying from a Fentanyl drug overdose.

Fentanyl strips are a way for those who use illicit drugs to check and make sure they are not ingesting or using a drug that contains Fentanyl. It is a test that takes 2 minutes and is nearly 100% accurate in detecting the presence of Fentanyl. Of particular note, is how little they cost. At roughly \$1 each, they are an inexpensive ways to help save lives.

The single-use strips work like other over-the-counter testing products: The user dips the strip into water containing a small amount of well-mixed drug residue and waits a few minutes for the result. Again this is a simple and cost effective way to help prevent further loss of life.

Yet, the biggest obstacle to getting these strips into the hands of people, is the perception that the strips promote or encourage drug use.

While it may be controversial, Fentanyl strips work. To combat drug related deaths, we have to be willing to think out of the box and consider non-traditional interventions to save lives. I pray, that you too, will see the value in this legislation and encourage your support of AB 619 bill.

Thank you for your time and attention.

Senator Lena C. Taylor
Wisconsin 4th District



October 20, 2021

To Members of the Assembly on Criminal Justice and Public Safety:

Thank you committee members for the opportunity to address the committee today. Thank you also to the bill authors including Representatives James, Zimmerman, Ortiz-Velez and others for authoring this important legislation.

Vivent Health is a new organization founded on the combined expertise of AIDS Resource Center of Wisconsin, Rocky Mountain CARES, St. Louis Effort for AIDS and AIDS Services of Austin. Together, we are working towards a world without AIDS. And we're committed to being a respectful, caring partner serving everyone affected by HIV through our comprehensive, integrated prevention, care and treatment programs.

Vivent Health asks for your support of Assembly Bill 619, in order to decriminalize fentanyl test strips (FTS). Vivent Health has a 25-year history of implementing our Lifepoint Program which provides harm reduction services and education, linkage to services (e.g., treatment, health care, housing) and testing for HIV, hepatitis C and syphilis.

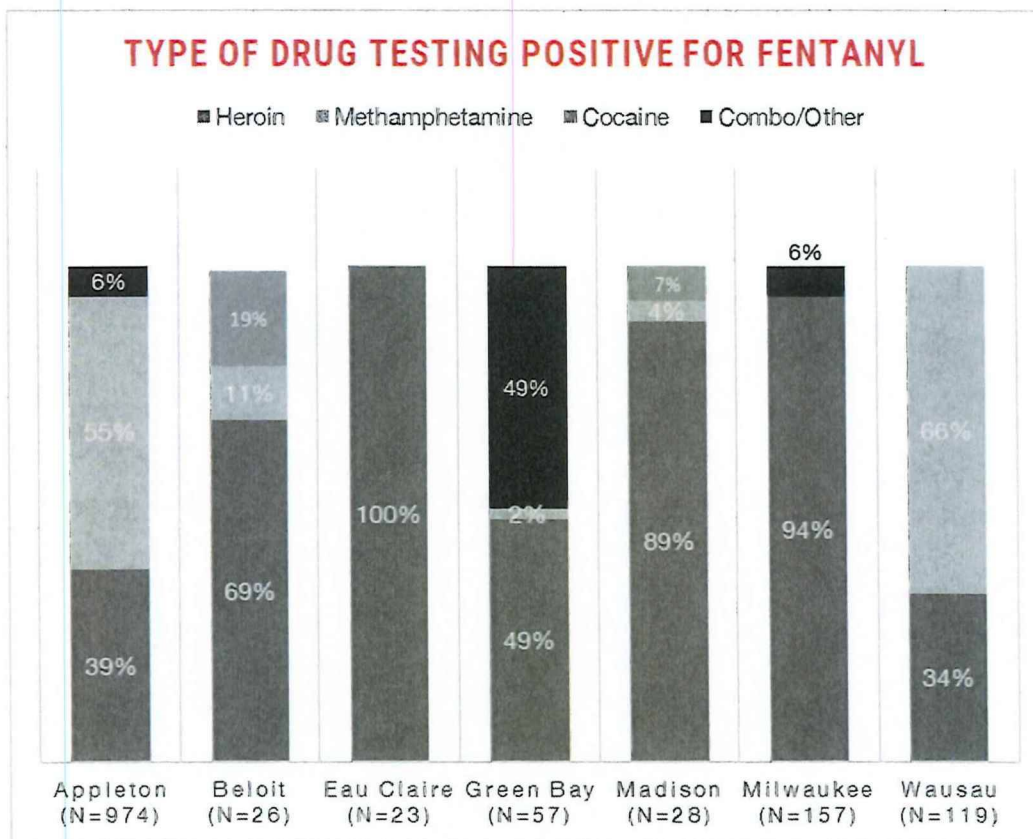
As part of the Lifepoint Program we distribute FTS to people who inject drugs (PWID) for the purpose of testing their drug for fentanyl. If a strip indicates that fentanyl is in the drug, people are able to implement strategies to reduce their risk of overdose.

In 2020, Vivent Health distributed more than 54,000 strips throughout Wisconsin and received more than 3,700 reports back from clients on their experience.

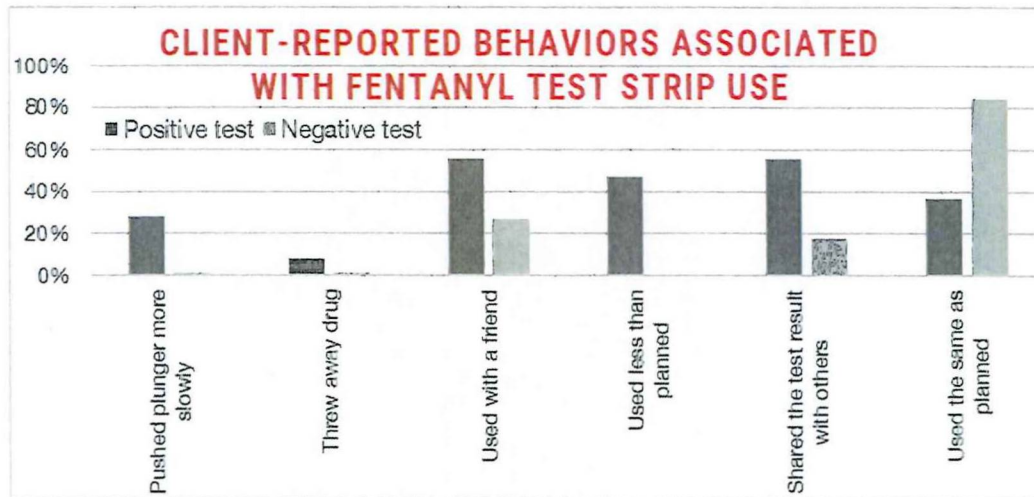
| | Appleton | Beloit | Eau Claire | Green Bay | Kenosha | La Crosse |
|----------------------------------|----------|--------|------------|-----------|---------|-----------|
| Fentanyl Test Strips Distributed | 10,670 | 3,852 | 4,529 | 9,020 | 1,261 | 1,750 |
| Number of Test Results Reported | 1,917 | 131 | 100 | 321 | 38 | 13 |

| | Madison | Milwaukee | Superior | Wausau | All Wisconsin |
|----------------------------------|---------|-----------|----------|--------|---------------|
| Fentanyl Test Strips Distributed | 3,454 | 13,909 | 2,286 | 4,108 | 54,839 |
| Number of Test Results Reported | 133 | 836 | 35 | 280 | 3,783 |

Individuals report testing heroin, methamphetamine, cocaine, and other drugs. The data below is from June – December 2020.



Once a person knows their drug has fentanyl in it they can make decisions about how to use the drug to reduce the risk of overdose.



The people we serve do not want to die. They want to make informed decisions and FTS can help them do that. Vivent Health will continue to provide services and be here when they are ready for treatment. In the meantime, we will keep them as safe.

Thank you for your consideration,

Kristen Grimes

Kristen Grimes, MAOM, MCHES
Director of Prevention Services
Vivent Health

Kristen.grimes@viventhealth.org

October 18, 2021

To Whom It May Concern,

My name is Mark, I am an addict/alcoholic. I've been living in recovery for over 13 years. Based on my life experiences, I switched careers and now work in the Behavioral Health Field with a concentration in helping those afflicted with Substance Use Disorders. Over the past several years fentanyl has inundated the illicit drug market in Wisconsin. This synthetic opioid is extremely potent and has been a direct factor in the deaths of hundreds of our fellow citizens. Initially, fentanyl was used as a filler to stretch out a drug dealer's supply of heroin. Overtime, use of this lethal product has morphed to the point where when lab tested we are not longer finding heroin in the heroin. The "heroin" being sold on the streets today is a combination of fentanyl and an inert filler. More concerning is the fact that fentanyl based products are being pressed into pill form that mirror both opioid and non opioid prescription medications. It is also being added to marijuana and other psychedelic "club" drugs. These adulterated non opioid products are extremely dangerous because the individuals who are ingesting them have no idea that they are taking an opioid. Since many of these individuals have no opioid tolerance they are being exposed to a high risk of an opioid overdose and possibly death.

I believe this product is a tool that can and will save lives, not just for active addicts but for the family members, friends and first responders who work to help active addicts on a daily basis. For a non-opiate user, simply touching a fentanyl laced product can result in an overdose. We are currently fighting blind against a very lethal opponent.

I advocate strongly that the State of Wisconsin legalize the distribution and use of Fentanyl Test Strips. I am a true believer in absolute sobriety as the solution for those suffering from Substance Use Disorders. However, this process takes time and often requires multiple attempts. Any and each use of a fentanyl laced product can cause death. Please set aside any stigma or bias and view Fentanyl Test Strips for what they are, a tool that can save lives.

Sincerely,

Mark Palazzari

Substance Use Disorder Liaison

Dewey Center/Aurora Psychiatric Hospital: Wauwatosa, WI

O: 414-256-7629

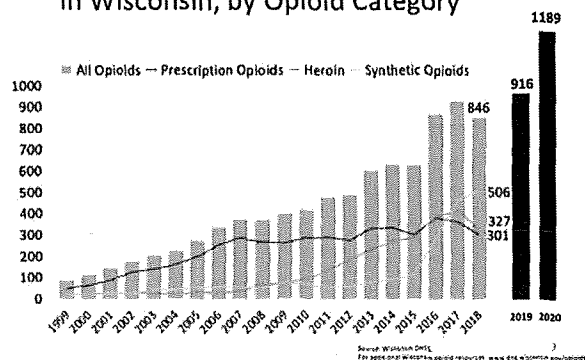
C: 414-803-3464

mark.palazzari@aah.org

WI AB 619 Fentanyl Test Strips

Why It's Needed

Number of Overdose Deaths Involving Opioids in Wisconsin, by Opioid Category



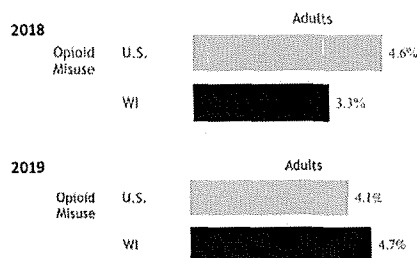
A Deteriorating Position in Wisconsin

| Opioid and Prescription Pain Medication Use Youth Population | | | |
|--|----------------------------------|--------------------------------|-----------------------------|
| | Pain Med Misuse In the Past Year | Opioid Misuse In the Past Year | Heroin Use In the Past Year |
| Wisconsin | 3.2% | 3.5% | 0.1% |
| U.S. | 2.9% | 3.0% | 0.1% |

| Opioid and Prescription Pain Medication Use Adult Population (18+) | | | |
|--|----------------------------------|--------------------------------|-----------------------------|
| | Pain Med Misuse In the Past Year | Opioid Misuse In the Past Year | Heroin Use In the Past Year |
| Wisconsin | 4.3% | 4.7% | 0.5% |
| U.S. | 3.9% | 4.1% | 0.3% |

Source: Wisconsin DHS. For additional Wisconsin opioid resources: www.dhs.wisconsin.gov/opioids

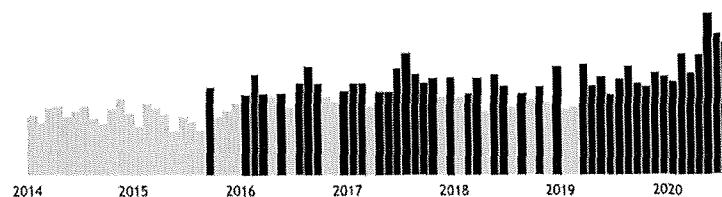
A Deteriorating Position in Wisconsin



- A 42% YOY Increase in Opioid Misuse in Wisconsin
- A 11% YOY Decrease in Opioid Misuse Nationally

A Deteriorating Position in Wisconsin

Statewide Number of All Opioid Deaths by Month



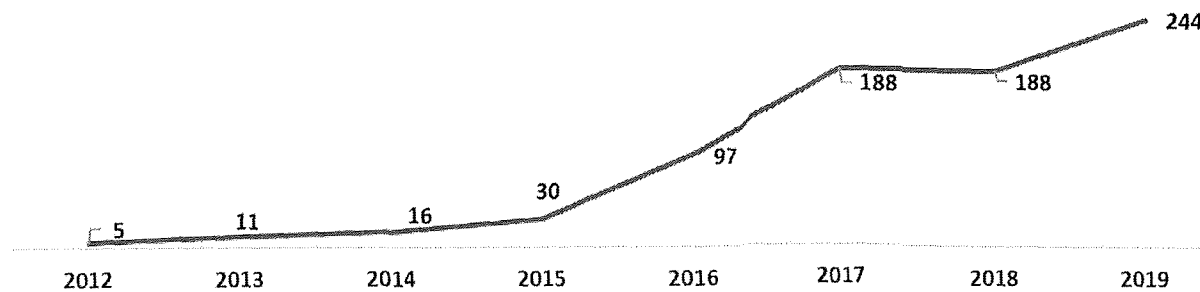
- Every Month in 2020 Has Witnessed Above Average Deaths
- 823 YTD Deaths in 2020 vs 599 in 2019
- A 37.4% Increase in YTD/YOY Deaths

WI AB 619 Fentanyl Test Strips

Why It's Needed

Fatal and non-fatal opioid-related overdoses continue to increase in Milwaukee County. Fentanyl and fentanyl derivatives have increasingly contributed to the cause of death as noted by the toxicology results. In 2019, 71% of all opioid-related overdose deaths involved fentanyl alone or in combination with other drugs.

Fatal Opioid-Related Overdoses Involving Fentanyl by Year



WI AB 619 Fentanyl Test Strips

Findings From FTS Pilots (CA, RI, MD, MA, WA, PA)

- Test strips are easy for PWUD to use with minimal instruction
- PWUD FTS users communicate positive test results within user community, causing deterrence
- Test strips are a useful engagement tool to foster discussion with PWUD regarding NARCAN, rehabilitation services, etc.
- Test strips allow providers to better engage with non-injectors and non-opioid users around overdose prevention and resulted in an increase in Naloxone training with non-opioid users
- Test strips allow PWUD to be more informed about the drugs they are buying and using, leading to behavior change and the adoption of increased harm reduction measures
- *Lower Overdose Deaths*

TO: Committee on Criminal Justice and Public Safety
FROM: Ritu Bhatnagar, MD, MPH, FASAM
Medical Director, NewStart Addiction Services at UPH- Meriter Hospital
President, Wisconsin Society of Addiction Medicine
DATE: October 20, 2021
RE: Support for AB619 Legislation

Good day, Mr. Chairman and members of the Committee on Criminal Justice and Public Safety. My name is Dr. Ritu Bhatnagar. I am speaking from the perspective of a physician deeply involved in the treatment of addiction. I am a licensed psychiatrist who specializes in addiction psychiatry. For the last eight years, I have been working at NewStart, Unity Point Health (UPH)- Meriter Hospital's addiction treatment service branch, and I have been the Medical Director there since 2015. I am an adjunct professor with the University of Wisconsin Department of Psychiatry and involved with the Addiction Psychiatry Fellowship. Additionally, I am president of the Wisconsin Society of Addiction Medicine (WISAM). I am here today on behalf of the Wisconsin Society of Addiction Medicine and the Wisconsin Medical Society to testify **in support** of Assembly Bill 619 relating to decriminalizing fentanyl test strips.

As you are aware, the opioid pandemic has hit Wisconsin hard. Opioid overdoses and deaths in Wisconsin **were** starting to trend slightly downwards in 2020. However, with the pandemic and the rise of illicit fentanyl, opioid overdoses and deaths are increasing again in the last year.

This increase in synthetic opioids poses a real danger to our community. Fentanyl is a powerful synthetic opioid, with a potency 50-100 times that of morphine (<https://www.drugabuse.gov/publications/drugfacts/fentanyl>). We addiction treatment professionals have been seeing so much fentanyl in confirmation tests, that we just assume that fentanyl is mixed in with what people are using and it has become something we need to consider when offering treatment options to people.

A significant concern for the general public is that fentanyl is now being mixed in with cocaine, cannabis, prescription pills, and more. The DEA recently issued a warning

regarding caution with regards to counterfeit pills, stamped to look like prescription pills, but that may have fentanyl mixed in.

For those who have never had opioids and have thus not built up a tolerance to them, this chance exposure to fentanyl can be lethal. For those who have some experience with opioids, the increase in potency caused by fentanyl can be enough to cause respiratory suppression, unconsciousness, and even death.

In an effort to reduce the likelihood of overdose, Wisconsin needle exchange facilities have been providing fentanyl test strips so that people can test their product before use to determine if it has been adulterated with fentanyl (<https://isthmus.com/news/cover-story/no-questions-asked/>). Fentanyl test strips (FTS) use technology similar to a home pregnancy test, in that the strip is dipped in a small amount of liquid with the substance in question. If there is fentanyl in the product, one line appears, and if there are 2 lines, then there is no fentanyl present. The rationale here is that this knowledge about the presence of fentanyl would allow the person to make an informed decision about their use, with additional safety measures in place, like the “Never use alone” hotline (<https://neverusealone.com/>) or having a friend nearby with naloxone on hand, or to decide not to use from this supply.

The use of FTS strips and availability is supported by studies (<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6701177/>) which show FTS test strips do not increase drug use, but rather, help people who are using drugs to make healthier choices. The Centers for Disease Control and SAMHSA, which stated in April 2021 that federal funding could be used to purchase rapid FTS, also supports the use of FTS as a harm reduction approach that has been shown to reduce behaviors associated with overdose and, by keeping people alive longer, increase likelihood of engagement in treatment (<https://www.samhsa.gov/newsroom/press-announcements/202104070200>). This, as a harm-reduction technique, has support from national organizations like the American Society of Addiction Medicine (ASAM), and is recommended for states to

explicitly change laws to decriminalize their use, as noted in the brief by the Legislative Analysis Bureau (<https://legislativeanalysis.org/wp-content/uploads/2021/05/Fentanyl-Teststrips-FINAL-1.pdf>).

In spite of this promising data, fentanyl test strips have been broadly classified as “drug paraphernalia” and therefore criminalized in Wisconsin. I have taken care of people who have been charged with possession of drug paraphernalia when they were trying to protect themselves and their friends. This occurred even when they had been given the FTS from a needle exchange program! This led to legal consequences for them that then prevented them from getting their lives back together when they were ready to find a job.

Fentanyl test strips are simply an effective tool to add to our efforts to reduce and prevent overdoses and deaths in Wisconsin. Clear protections in laws are preferred, so there is less local variation in enforcement. We, as addiction treatment providers, are seeing that these laws are being enforced inconsistently depending on location and local legal authorities. That is another reason WISAM is asking to decriminalize FTS.

Decriminalizing FTS makes it that much more likely that people will find their way to treatment rather than to the criminal legal system. Each interaction with places like the needle exchanges that provide FTS with accurate information about substance use is an opportunity for the individual to also access treatment and other social services, like housing or food assistance. It also allows the state to use funds from SAMHSA and DHS to get the strips into the hands of people who need them, allowing for more collaboration between community partners who are all affected by the opioid epidemic. For instance, imagine how helpful it would be if a person who presents to the hospital emergency department after an overdose could get information about treatment, and FTS along with a prescription for naloxone before they leave.

As a provider, I appreciate that fentanyl test strips not being a source of new legal charges is an important step towards encouraging people to be safe if they choose to use substances, thus allowing them to be more likely to engage in treatment. WISAM and

WMS thus register our support for Assembly Bill 619 to decriminalize fentanyl test strips.

Since we are talking about fentanyl, I want to note that it is SO powerful that it can overpower a single dose of naloxone and a person treated with naloxone can still overdose again or die. That is why it is important to renew the parts of HOPE legislation (like the Good Samaritan and the Aider Laws) that are sunsetted. This was passed in the WI Assembly in 2019 but not yet taken up by the Senate.

I am asking, on behalf of the Wisconsin Society of Addiction Medicine, the Wisconsin Medical Society, with the perspective of being at the forefront of addiction treatment that fentanyl test strips be decriminalized, and these laws be extended to reflect the good faith intention of getting people with addiction diverted from the criminal legal system and into treatment for the benefit of the entire state of Wisconsin.

I thank the Committee for giving me the opportunity to testify in support of AB 619 and this important legislation.

We know that naloxone works to reverse overdoses in the short term. However, with potent opioids like fentanyl, while it is effective to reverse the overdose, but may require repeated doses, and people are not aware that the effect can wear off. This is why it is important to consider the impact of the Good Samaritan Law (Act 194) on the situation of opioid overdoses. This law was established in 2013 to offer limited immunity from criminal prosecution for someone who called 911 in response to someone else's overdose (<https://docs.legis.wisconsin.gov/2013/related/lcactmemo/act194.pdf>). It took effect in April 2014.

According to the Governor's Task Force on Opioid Abuse, fear of arrest and prosecution still prevents bystanders from calling for help in the event of an overdose. I have heard from the people I care for that their friend has told them that they would rather die than

go to jail, and to please not call for help if they overdose as they would face a charge for “internal possession.” The Task Force on Opioid Abuse recommended that the person who overdoses, not just the one who reports it, should receive the same level of immunity (<https://hope.wi.gov/Documents/ReportOnCombatingOpioidAbuse.pdf>). This is in line with ASAM’s policy, which states that “All jurisdictions should adopt laws that provide overdose victims and persons assisting with the emergency immunity from prosecution and civil liability should they come in contact with emergency responders. This immunity should apply as well to overdose victims and persons assisting with the emergency who are supervised as part of probation or parole agreements” ([Use of Naloxone for the Prevention of Opioid Overdose Deaths \(asam.org\)](https://www.asam.org/Use-of-Naloxone-for-the-Prevention-of-Opioid-Overdose-Deaths)). In 2017, Act 33 provided the same limited immunity to the person experiencing the overdose (https://docs.legis.wisconsin.gov/2017/related/lcamendmemo/jr7_ab3.pdf), and Act 59 provided immunity from revocation of probation, parole, or extended supervision for certain controlled substance offenses.

Act 194, Act 33 and Act 59 have been allowed to sunset as of August 1, 2020. I am aware that AB 651 to extend Act 33 and Act 59 was introduced and passed in 2019, from where it was sent on to the Senate to vote on SB 590. However, due to the pandemic, it appears that these were not taken up by the Senate, and the provisions related to protecting the person calling for an overdose as well as the person experiencing the overdose are no longer in place. As we have mentioned before, it is treatment and not legal enforcement that has been shown to be effective in addressing substance use disorders.

I am asking, on behalf of the Wisconsin Society of Addiction Medicine, the Wisconsin Medical Society, and the people of Wisconsin, both with addiction and on behalf of their communities, that this oversight be addressed, and these laws be extended to reflect the good faith intention of getting people with addiction diverted from the criminal legal system and into treatment for the entire state of Wisconsin.