

# THE NEED FOR FENTANYL-SPECIFIC DRUG EDUCATION IN SCHOOLS

*By: Emma Guggenheimer\**

## TABLE OF CONTENTS

INTRODUCTION.....	706
I. BACKGROUND/CONTEXT .....	707
A. <i>The Three Waves of the Opioid Epidemic</i> .....	707
B. <i>What is Fentanyl?</i> .....	709
II. THE PROBLEM .....	710
A. <i>The Increase in Fentanyl-Related Overdose Deaths Among Teenagers</i> .....	710
III. THE LANDSCAPE .....	712
A. <i>The Role of Drug Education in Schools</i> .....	712
B. <i>Current Drug Education Prevention Programs</i> .....	712
C. <i>Recent Developments</i> .....	717
1. Addressing Opioids in Drug Education.....	717
2. Promoting the Use of Fentanyl Test Strips .....	719
3. Stocking Naloxone in Schools .....	720
IV. PROPOSAL: THE NEED FOR STATE LEGISLATION ON FENTANYL-SPECIFIC INSTRUCTION FOR K-12 SCHOOLS .....	722
CONCLUSION .....	725

---

\* Managing Editor, *Cardozo Journal of Equal Rights and Social Justice* (Vol. 30); J.D. Candidate, Benjamin N. Cardozo School of Law (June 2024); B.A., The George Washington University (2021). I would like to thank the Cardozo Journal of Equal Rights and Social Justice Management Team for their thoughtful feedback throughout this Note writing process. I would also like to thank my family and friends for their unwavering support.

## INTRODUCTION

In September 2021, Ryan Christoff found his then sixteen-year-old daughter, Sofia, struggling to breathe in their home near Boulder, Colorado.<sup>1</sup> Little did he know at the time, Sofia was suffering from an overdose.<sup>2</sup> She had taken a half of a Percocet pill given to her by her boyfriend, not knowing that it was laced with fentanyl—a synthetic opioid used to treat severe pain.<sup>3</sup> After receiving a 9-1-1 call from Ryan Christoff, Sergeant David Cohen arrived at the Christoff home in minutes and started chest compressions.<sup>4</sup> He quickly administered Narcan<sup>5</sup> to Sofia, who was unconscious and barely breathing.<sup>6</sup> According to Cohen, within seconds, Sofia began gasping for air.<sup>7</sup> She was taken to the hospital and was released just hours later.<sup>8</sup> On that day, Sofia Christoff survived.<sup>9</sup> However, others who have experienced fentanyl-linked drug overdoses have not been as fortunate.<sup>10</sup> In 2023, for the first time in United States history, fatal fentanyl overdoses peaked above 112,000 deaths in a twelve-month period.<sup>11</sup>

Fentanyl is fifty times more powerful than heroin and is extremely inexpensive to produce,<sup>12</sup> making it an effective cutting agent that can stretch a supply of heroin or juice up fake prescription pills.<sup>13</sup> Tanya, a forty-five-

---

<sup>1</sup> Sally Hawkins, Ashley Schwartz-Lavares, Claire Pedersen, Jeff Cook & Haley Yamada, *Fentanyl Overdose Survivor Tells Her Story: 'I Was a Lucky One. I Gotta Make it Worth it.'* ABC NEWS (Apr. 6, 2022, 5:28 PM), <https://abcnews.go.com/Nightline/fentanyl-overdose-survivor-tells-story-lucky-gotta-make/story?id=83908027>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> “[Narcan] Naloxone is a medication approved by the Food and Drug Administration designed to rapidly reverse opioid overdose.” *Opioid Overdose Reversal Medications (OORM): What is Naloxone?*, SUBSTANCE ABUSE AND MENTAL HEALTH SERVS. ADMIN., <https://www.samhsa.gov/medications-substance-use-disorders/medications-counseling-related-conditions/naloxone> (last updated Mar. 26, 2024). “It is an opioid antagonist—meaning that it binds to opioid receptors and can reverse and block the effects of other opioids, such as heroin, morphine, and oxycodone.” *Id.*

<sup>6</sup> Hawkins, Schwartz-Lavares, Pedersen, Cook & Yamada, *supra* note 1.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> Brian Mann, Aneri Pattani & Martha Bebinger, *In 2023 Fentanyl Overdoses Ravaged the U.S. and Fueled a New Culture War Fight*, NPR (Dec. 28, 2023, 8:51 AM), <https://www.npr.org/2023/12/28/1220881380/overdose-fentanyl-drugs-addiction#:~:text=In%202023%20the%20overdose%20death,for%20Disease%20Control%20and%20Prevention.>

<sup>12</sup> Nadia Kounang, *This Strip of Paper Can Help Prevent a Drug Overdose*, <https://www.cnn.com/2021/12/01/health/fentanyl-test-strip/index.html> (last updated Dec. 1, 2021, 9:57 PM).

<sup>13</sup> *Id.*

## 2024] FENTANYL-SPECIFIC DRUG EDUCATION 707

year-old woman who has used heroin on and off for the past twenty years,<sup>14</sup> says that now is the most dangerous time to use.<sup>15</sup> “We’re at a great risk for having unknown substances put into the drugs, it’s so uncertain,” Tanya says of the drug supply.<sup>16</sup>

Part I of this Note discusses the background of the opioid epidemic and explains what fentanyl is. Part II focuses on the increase of fentanyl-related deaths among teenagers in the United States. Part III analyzes the role of drug education in public schools and examines current drug education programs in schools throughout the United States. Part IV proposes that state legislation on fentanyl-specific instruction in schools is a necessary component to combat the opioid epidemic.

## I. BACKGROUND/CONTEXT

### A. *The Three Waves of the Opioid Epidemic*

Over the past two decades, more than 645,000 people have died from an opioid overdose, including both prescription and illicit opioids.<sup>17</sup> However, opioids have not always been seen as so dangerous. Medical literature in the 1980s promoted prescription opioids as non-addictive drugs and encouraged physicians to prescribe them for the treatment of chronic pain.<sup>18</sup> Concurrently, U.S. states began enacting legislation that endorsed the prescription of controlled substances for pain management.<sup>19</sup> Since that time, the increase in opioid overdose fatalities can be categorized into three separate waves.<sup>20</sup>

The initial wave of opioid-related fatalities commenced in 1991 due to a substantial surge in the prescription of opioids and opioid combination medications for pain management.<sup>21</sup> These medications proved to be more lethal than initially portrayed in academic materials and, due to incentives within the U.S. healthcare system which prioritized patient volume and

---

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Understanding the Epidemic*, CTRS. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/opioids/basics/epidemic.html#:~:text=The%20first%20wave%20began%20with,overdose%20deaths%20involving%20heroin4> (last reviewed Aug. 8, 2023).

<sup>18</sup> Evelyn L.A. Jackson, *Safe Injection Facilities: Reconsidering American Drug Policy*, 63 B.C. L. REV. 1467, 1471 (2022).

<sup>19</sup> *Id.* at 1471.

<sup>20</sup> *Understanding the Epidemic*, *supra* note 17.

<sup>21</sup> Lindsay Liu, Diana N. Pei & Pela Soto, *History of the Opioid Epidemic: How Did We Get Here?*, POISON!, [https://www.poison.org/articles/opioid-epidemic-history-and-prescribing-patterns-182?gclid=Cj0KCCQjwteOaBhDuARIsADBqRejiO4tFzECO5EE3Ig6MQV10Ds7YhxW-r2mWfUza6rftPmH9MommL9QaAtOzEALw\\_wcB](https://www.poison.org/articles/opioid-epidemic-history-and-prescribing-patterns-182?gclid=Cj0KCCQjwteOaBhDuARIsADBqRejiO4tFzECO5EE3Ig6MQV10Ds7YhxW-r2mWfUza6rftPmH9MommL9QaAtOzEALw_wcB) (last visited Feb. 15, 2024).

708 *EQUAL RIGHTS & SOCIAL JUSTICE* [Vol. 30:3]

satisfaction, physicians started to excessively prescribe opioids.<sup>22</sup> In the early 1990s, opioids were primarily used for the treatment of cancer-related pain.<sup>23</sup> However, by 1999, eighty-six percent of patients using opioids were using them for non-cancer related pain.<sup>24</sup> Pharmaceutical companies further encouraged the over-prescription of opioids by promoting their usage for patients experiencing non-cancer related pain, despite a dearth of data regarding associated risks and benefits in such cases.<sup>25</sup> The surge in opioid prescriptions was shaped by pharmaceutical companies and medical societies providing reassurances to prescribers, asserting that the likelihood of addiction to prescription opioids was exceedingly low.<sup>26</sup>

The second wave of fatalities began in 2010 and was marked by significant spikes in overdose deaths linked to heroin.<sup>27</sup> As state and federal agencies began to restrict accessibility to opioids<sup>28</sup> by making prescription opioids harder to obtain, the focus of consumers turned to heroin—an affordable, readily-accessible, illegal, and potent opioid.<sup>29</sup> Deaths due to heroin-related overdoses increased by 286 percent from 2002 to 2013, and around eighty percent of heroin users acknowledged misusing prescription opioids before transitioning to heroin.<sup>30</sup>

The third wave of overdose deaths emerged in 2013, primarily driven by synthetic opioids, notably illicitly manufactured fentanyl.<sup>31</sup> The third wave of the opioid epidemic is frequently cited as the most perilous, primarily due to the potency of fentanyl.<sup>32</sup> Drug dealers started to dilute pure heroin with fentanyl, a synthetic opioid that is stronger and more deadly than heroin.<sup>33</sup> Since 2013, fentanyl-related overdose deaths have skyrocketed from under five thousand to over twenty-six thousand in 2019.<sup>34</sup>

---

<sup>22</sup> Jackson, *supra* note 18, at 1472.

<sup>23</sup> Russell K. Portenoy, Zankhana Mehta & Ebtesam Ahmed, *Cancer Pain Management with Opioids: Optimizing Analgesia*, UPTODATE, <https://www.uptodate.com/contents/cancer-pain-management-with-opioids-optimizing-analgesia> (last updated Jan. 25, 2024).

<sup>24</sup> Liu, Pei & Soto, *supra* note 21.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Understanding the Epidemic*, *supra* note 17.

<sup>28</sup> Jackson, *supra* note 18, at 1472.

<sup>29</sup> Liu, Pei & Soto, *supra* note 21.

<sup>30</sup> *Id.*

<sup>31</sup> *Understanding the Epidemic*, *supra* note 17.

<sup>32</sup> Jake Gorman, *What are the “Three Waves” of the Opioid Epidemic?*, ASHEVILLE RECOVERY CTR. (Dec. 14, 2021), <https://www.ashevillerecoverycenter.com/three-waves-of-the-opioid-epidemic>.

<sup>33</sup> Jackson, *supra* note 18, at 1472.

<sup>34</sup> *Id.*

## 2024] FENTANYL-SPECIFIC DRUG EDUCATION 709

*B. What is Fentanyl?*

Fentanyl is a synthetic opioid commonly and legitimately used for surgical, acute, and severe pain, but it can also be illicitly manufactured.<sup>35</sup> Its potency means that it is small, easily transportable, hard to detect, and yields high profits for those who sell it.<sup>36</sup> These characteristics make fentanyl well-suited to the current drug market which incentivizes drug adaptations (i.e., fentanyl usage instead of heroin) that benefit drug dealers, even when such adaptations heighten risks for drug users.<sup>37</sup> Drug dealers are increasingly using fentanyl as an adulterant<sup>38</sup> in opioids, such as heroin and stimulants, in an effort to stretch their supplies and increase profits on the black market.<sup>39</sup> Illicit fentanyl usually takes the form of a clear liquid or a powder that ranges in color from off-white to light brown.<sup>40</sup> Powdered fentanyl looks just like many other drugs and is commonly mixed with drugs like heroin, cocaine, and methamphetamine.<sup>41</sup> Typically, powdered fentanyl is mixed with one of these drugs and the result is transferred to pill form, resembling other legal, prescription opioids.<sup>42</sup>

Fentanyl and other synthetic opioids are the most common drugs involved in overdose deaths.<sup>43</sup> It is nearly impossible to tell if drugs have been laced with fentanyl, which is undetectable by sight, scent, and taste.<sup>44</sup> This creates a dangerous situation where people may consume fentanyl without even knowing it.<sup>45</sup> The widespread presence of fentanyl in both opioid and non-opioid drug markets increases the likelihood of overdoses occurring in broader populations, including individuals without substance use disorders who may only occasionally use drugs.<sup>46</sup> For instance, the rates

---

<sup>35</sup> Katharine Neill Harris, *Check It: How Drug Testing Programs Can Reduce Overdose Deaths*, RICE UNIV.'S BAKER INST. FOR PUB. POL'Y (Sept. 2, 2022), [https://www.bakerinstitute.org/research/check-it-how-drug-testing-programs-can-reduce-overdose-deaths#\\_ednref44](https://www.bakerinstitute.org/research/check-it-how-drug-testing-programs-can-reduce-overdose-deaths#_ednref44).

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> “An adulterant is a chemical which acts as a contaminant when combined with other substances. Adulterants are added to pure substances to extend the quantity while reducing the quality.” Anne Marie Helmenstine, *What is an Adulterant?*, THOUGHTCO., <https://www.thoughtco.com/definition-of-adulterant-604748> (last updated Mar. 8, 2019).

<sup>39</sup> LEGIS. ANALYSIS & PUB. POL'Y ASS'N, FENTANYL TEST STRIPS (May 2021) (available at: <https://legislativeanalysis.org/wp-content/uploads/2021/05/Fentanyl-Teststrips-FINAL-1.pdf>).

<sup>40</sup> *What Does Fentanyl Look Like?*, RECOVERING CHAMPIONS FOR HOPE & FREEDOM (Nov. 17, 2021), <https://recoveringchampions.com/what-does-fentanyl-look-like>.

<sup>41</sup> *Fentanyl Facts*, CTRS. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/stopoverdose/fentanyl/index.html> (last reviewed Apr. 4, 2024).

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> Harris, *supra* note 35.

of drug use among teenagers have remained steady or decreased over the past two decades, but teen overdose cases are now increasing more rapidly than those of adults, primarily because of the widespread presence of fentanyl in various unregulated substances.<sup>47</sup>

## II. THE PROBLEM

### A. *The Increase in Fentanyl-Related Overdose Deaths Among Teenagers*

Drug overdose deaths in the United States continue to rise.<sup>48</sup> According to the Centers for Disease Control (“CDC”), overdoses claimed more than 112,000 American lives from May 2022 to May 2023, a thirty-seven percent increase from the twelve-month period ending in May 2020.<sup>49</sup>

The surge in overdose fatalities, which has doubled over three years, presents a concerning trend amidst a significant historical decline in drug and alcohol usage among high school students.<sup>50</sup> For instance, excluding cannabis, the prevalence of any illicit drug use among just twelfth graders decreased from approximately twenty-one percent in 2002 to eight percent in 2022.<sup>51</sup> In 2021, over one-thousand-five hundred individuals under twenty years of age died from fentanyl, marking a fourfold increase from 2018.<sup>52</sup> Fentanyl-related deaths constituted nearly all opioid-related fatalities in this age group in 2021.<sup>53</sup> These adolescent overdoses have escalated to the extent that the death toll is equivalent to a high school classroom each week, now ranking as the third leading cause of pediatric deaths behind firearm-related injuries and motor vehicle accidents.<sup>54</sup> Although fentanyl-related deaths in the general population began to surge sharply in 2013, adolescent fatalities

---

<sup>47</sup> *Id.*

<sup>48</sup> Ty Schepis, *How Dozens of U.S. Adolescents are Dying of Drug Overdoses Each Month, Shown in 3 Charts*, PBS (Dec. 2, 2023, 12:45 PM), <https://www.pbs.org/newshour/health/how-dozens-of-u-s-adolescents-are-dying-of-drug-overdoses-each-month-shown-in-3-charts#:~:text=Fentanyl%20increasingly%20involved%20in%20US,there%20were%20884%20in%202021>.

<sup>49</sup> *Id.*

<sup>50</sup> Daniel De Visé, *Teen Overdose Deaths Have Doubled in Three Years. Blame Fentanyl.*, THE HILL (Mar. 26, 2023, 6:00 AM), <https://thehill.com/policy/healthcare/3917058-teen-overdose-deaths-have-doubled-in-three-years-blame-fentanyl>.

<sup>51</sup> *About 22 High School Age Adolescents Died Each Week from Overdoses in 2022, Driven by Fentanyl-Laced Prescription Pills*, UCLA HEALTH (Jan. 8, 2024), <https://www.uclahealth.org/news/about-22-high-school-age-adolescents-died-each-week>.

<sup>52</sup> Aimee Cunningham, *Fentanyl Deaths Have Spiked Among U.S. Children and Teens*, SCIENCE NEWS (Apr. 28, 2023, 12:01 AM), <https://www.sciencenews.org/article/fentanyl-deaths-children-teens-opioid>.

<sup>53</sup> *Id.*

<sup>54</sup> *About 22 High School Age Adolescents Died Each Week from Overdoses in 2022, Driven by Fentanyl-Laced Prescription Pills*, *supra* note 51.

## 2024] FENTANYL-SPECIFIC DRUG EDUCATION 711

were not substantially affected until 2019.<sup>55</sup> Initially prevalent in powder forms such as a heroin substitute, recently fentanyl has been increasingly pressed into counterfeit pills resembling oxycodone, benzodiazepines, and other prescription medications, with which adolescents are more inclined to experiment.<sup>56</sup> For instance, in 2022, only 0.3 percent of twelfth graders reported previous-year heroin use, while five percent reported nonmedical use of prescription drugs.<sup>57</sup> Many youths encounter fentanyl when they buy pills that they believe to be pain medications or stimulants, like Adderall, unaware that they contain fentanyl.<sup>58</sup>

Pediatrician and addiction specialist Sarah Bagley from Boston University's Chobanian and Avedisian School of Medicine explained that this primarily characterizes the experience of what is happening among teenagers: They intend to purchase and consume one kind of drug or substance but inadvertently ingest fentanyl.<sup>59</sup> Moreover, Lauren Tanz, an epidemiologist studying overdose prevention at the CDC, notes that various factors contribute to the alarming surge in teenage overdose deaths linked to fentanyl.<sup>60</sup> "The combination of more easily available drugs—particularly highly potent drugs like fentanyl that are available via social media and through counterfeit pills—and a mental health crisis among adolescents that was exacerbated during the COVID-19 pandemic is resulting in an increase in overdose deaths among kids."<sup>61</sup>

Given that numerous adolescents may unintentionally consume fentanyl, it is imperative to implement up-to-date overdose prevention

<sup>55</sup> Joseph Friedman, Morgan Godvin, Chelsea L. Shover, Joseph P. Gone, Helena Hansen & David L. Schriger, *Trends in Drug Overdose Deaths Among US Adolescents, January 2010 to June 2021*, 327 JAMA 1398 (2022) (available at: <https://jamanetwork.com/journals/jama/article-abstract/2790949>).

<sup>56</sup> Lauren J. Tanz, Amanda T. Dinwiddie, Christine L. Mattson, Julie O'Donnell & Nicole L. Davis, *Drug Overdose Deaths Among Persons Aged 10-19 Years – United States, July 2019-December 2021*, 71 MORBIDITY & MORALITY WEEKLY REPORT 1576 (2022) (available at: <https://www.cdc.gov/mmwr/volumes/71/wr/mm7150a2.htm>); Joseph J. Palamar, Daniel Ciccarone, Caroline Rutherford, Katherine M. Keyes, Thomas H. Carr & Linda B. Cottler, *Trends in Seizures of Powders and Pills Containing Illicit Fentanyl in the United States, 2018 Through 2021*, 234 DRUG & ALCOHOL DEPENDENCE 109398 (2022) (available at: <https://doi.org/10.1016/j.drugalcdep.2022.109398>).

<sup>57</sup> Joseph Friedman & Scott E. Hadland, *The Overdose Crisis Among U.S. Adolescents*, 390 N. ENGL. J. MEDICINE 97 (2024) (available at: [https://www.nejm.org/doi/full/10.1056/NEJMp2312084?query=featured\\_secondary](https://www.nejm.org/doi/full/10.1056/NEJMp2312084?query=featured_secondary)).

<sup>58</sup> Maria Temming, *Fentanyl Deaths Have Spiked Among U.S. Kids and Teens. Here's What to Know*, SCIENCENEWSEXPLORES (May 12, 2023, 6:30 AM), <https://www.snewsxplores.org/article/fentanyl-deaths-have-spiked-among-u-s-kids-and-teens-heres-what-to-know>.

<sup>59</sup> Cunningham, *supra* note 52.

<sup>60</sup> Elissa Nadworny & Lee V. Gaines, *As More Teens Overdose on Fentanyl, Schools Face a Drug Crisis Unlike Any Other*, NPR (Aug. 30, 2023, 5:00 AM), <https://www.npr.org/2023/08/30/1196343448/fentanyl-deaths-teens-schools-overdose#:~:text=Fentanyl%20was%20involved%20in%20the,tripled%20from%202019%20to%202021.>

<sup>61</sup> *Id.*

education. Educators possess the capability to effectively communicate the dangers linked with fentanyl and counterfeit medications.

### III. THE LANDSCAPE

#### A. *The Role of Drug Education in Schools*

Education provided in schools plays an instrumental role in educating children and teenagers about the potential implications of their actions and habitual behaviors.<sup>62</sup> The purpose of school-based drug prevention programs is to prevent or at least diminish children's use of a variety of substances.<sup>63</sup> Engaging students in alcohol and other drug education can help shape their attitudes and behaviors towards these things.<sup>64</sup> This education can also help students develop strategies for risky situations and empower them to make safer and healthier choices.<sup>65</sup> Although many parents choose to speak to their children about taking drugs and drinking alcohol, not every child will receive this kind of education at home.<sup>66</sup> Drug and alcohol education in schools can help ensure that no child slips through the net, and also offers a different perspective of substance abuse and an arena in which to share comments, thoughts, or experiences.<sup>67</sup>

#### B. *Current Drug Education Prevention Programs*

Most U.S. states address drug prevention in schools, either by requiring schools to provide education or by mandating that state agencies make curriculum available to students.<sup>68</sup> Generally, state-level initiatives aim to support education and prevention efforts on the ground, while state legislative responses in recent years have addressed one or both of the following: opioid misuse education in school curriculum and possession and

---

<sup>62</sup> *The Importance of Drug, Alcohol & Substance Abuse Prevention & Education in Schools and the Effect it Has*, EDUCATION LIFESKILLS (Mar. 28, 2019), <https://educationlifeskills.com/importance-drug-alcohol-substance-abuse-education-schools-effect>.

<sup>63</sup> JONATHAN P. CAULKINS, ROSALIE LICCARDO PACULA, SUSAN M. PADDOCK & JAMES CHIESA, WHAT ARE THE TRUE BENEFITS OF SCHOOL-BASED DRUG PREVENTION PROGRAMS? (2002) (available at: [https://www.rand.org/pubs/research\\_briefs/RB6009.html](https://www.rand.org/pubs/research_briefs/RB6009.html)).

<sup>64</sup> *The Role of Drug Education in Schools*, ALCOHOL & DRUG FOUND. (Oct. 4, 2023), <https://adf.org.au/insights/drug-education-schools/#:~:text=Engaging%20students%20in%20alcohol%20and,make%20safer%20and%20healthier%20choices.>

<sup>65</sup> *Id.*

<sup>66</sup> *The Importance of Drug, Alcohol & Substance Abuse Prevention & Education in Schools and the Effect it Has*, *supra* note 62.

<sup>67</sup> *Id.*

<sup>68</sup> Sarah Schwartz, *4 States Consider Mandating Fentanyl Prevention Education in Schools*, EDUCATIONWEEK (May 24, 2023), <https://www.edweek.org/leadership/4-states-consider-mandating-fentanyl-prevention-education-in-schools/2023/05>.

2024] *FENTANYL-SPECIFIC DRUG EDUCATION* 713

administration of naloxone by school personnel.<sup>69</sup> Most states mandate or strongly recommend some form of alcohol and drug abuse education in their middle and high school health education curricula.<sup>70</sup> Forty-four states (Alabama,<sup>71</sup> Alaska,<sup>72</sup> Arizona,<sup>73</sup> California,<sup>74</sup> Colorado,<sup>75</sup> Connecticut,<sup>76</sup> Delaware,<sup>77</sup> Florida,<sup>78</sup> Georgia,<sup>79</sup> Idaho,<sup>80</sup> Illinois,<sup>81</sup> Indiana,<sup>82</sup> Iowa,<sup>83</sup>

<sup>69</sup> ALYSSA RAFA, EDUC. COMM'N OF THE STATES, EDUCATION POLICY RESPONSES TO THE OPIOID CRISIS (2019) (available at: <https://www.ecs.org/wp-content/uploads/Education-Policy-Responses-to-the-Opioid-Crisis.pdf>).

<sup>70</sup> *Id.*

<sup>71</sup> ALA. ADMIN. CODE r. 290-3-1-.02(16)(a) (2023) (“All students, Grades K-12, shall be taught the adverse and dangerous effects of drugs on the human mind and body.”).

<sup>72</sup> ALASKA STAT. ANN. § 14.30.360 (West 2022) (“Each district in the state public school system shall be encouraged to initiate and conduct a program in health education for kindergarten through grade 12. The program should include instruction . . . including alcohol and drug abuse education[.]”).

<sup>73</sup> ARIZ. REV. STAT. ANN. § 15-712(A) (2024) (“Instruction on the nature and harmful effects of alcohol, tobacco, narcotic drugs, marijuana, date rape drugs and other dangerous drugs . . . may be included in the courses of study in common and high schools[.]”).

<sup>74</sup> CAL. EDUC. CODE § 51260(a) (West 2023) (“Instruction shall be given in the elementary and secondary schools by appropriately trained instructors on drug education and the effects of the use of tobacco, alcohol, narcotics, dangerous drugs . . . and other dangerous substances.”).

<sup>75</sup> COLO. REV. STAT. ANN. § 22-25-104(1) (West 2023) (“There is hereby created the Colorado comprehensive health education program, which shall be a voluntary program in which school districts, boards of cooperative services, and facility schools may participate through the creation of local comprehensive health education programs[.]”); COLO. REV. STAT. ANN. § 22-25-103(3) (West 2019) defines “comprehensive health education” as “planned, sequential health program of learning experiences in preschool, kindergarten, and grades one through twelve that must include, but is not limited to, the following topics: . . . (e) Tobacco, alcohol, and other drug use[.]”

<sup>76</sup> CONN. GEN. STAT. ANN. § 10-16b(a) (West 2023) (“In the public schools the program of instruction offered shall include at least the following subject matter . . . substance abuse prevention[.]”).

<sup>77</sup> DEL. CODE ANN. tit. 14, § 122(16) (West 2022) (“Requiring health and wellness educational programs for grades K through 12, emphasizing . . . the avoidance of unhealthy behaviors such as smoking and drug abuse.”).

<sup>78</sup> FLA. STAT. ANN. § 1003.42(2) (West 2023) (“Members of the instructional staff of the public schools . . . shall teach . . . (n) comprehensive health education that addresses . . . substance use and abuse.”).

<sup>79</sup> GA. CODE ANN. § 20-2-144(a) (West 2021) (“Each local board of education shall prescribe mandatory instruction concerning alcohol . . . and other drug use in every year in every grade from kindergarten through grade 12 as shall be determined by the State Board of Education.”).

<sup>80</sup> IDAHO CODE ANN. § 33-1605 (West 2023) (“In all school districts there shall be instruction in health and physical fitness, including effects of alcohol, stimulants, tobacco and narcotics on the human system.”).

<sup>81</sup> 105 ILL. COMP. STAT. ANN. 110/3 (West 2023) (“The program established under this Act shall include . . . alcohol and drug use, and abuse including the medical and legal ramifications of alcohol, drug, and tobacco use[.]”).

<sup>82</sup> IND. CODE ANN. § 20-30-5-11(a) (West 2022) (“For kindergarten through grade 12, the governing body of each school corporation shall provide instruction concerning the effects that: (1) alcoholic beverages; (2) tobacco; (3) prescription drugs; and (4) controlled substances; have on the human body and society at large.”).

<sup>83</sup> IOWA CODE ANN. § 256.11(j) (West 2023) (“(1) One unit of health education which may include personal health . . . substance use disorder and nonuse[.]”).

714 *EQUAL RIGHTS & SOCIAL JUSTICE* [Vol. 30:3]

Kentucky,<sup>84</sup> Louisiana,<sup>85</sup> Maine,<sup>86</sup> Maryland,<sup>87</sup> Massachusetts,<sup>88</sup> Michigan,<sup>89</sup> Mississippi,<sup>90</sup> Missouri,<sup>91</sup> Montana,<sup>92</sup> Nebraska,<sup>93</sup> Nevada,<sup>94</sup> New

<sup>84</sup> KY. REV. STAT. ANN. § 158.6453(18)(b) (West 2022) (“The academic standards in practical living skills for elementary, middle, and high school levels shall include a focus on drug abuse prevention, with an emphasis on the prescription drug epidemic and the connection between prescription opioid abuse and addiction to other drugs, such as heroin and synthetic drugs.”).

<sup>85</sup> LA. STAT. ANN. § 17:154(A)(2) (2021) (“Every secondary school shall provide instruction in alcohol, tobacco, drug, and substance abuse prevention and education.”).

<sup>86</sup> ME. REV. STAT. ANN. tit. 20-A, § 4723 (2019) (“The secondary course of study must include instruction in health, safety and physical education . . . with special reference to the effects of alcoholic drinks, stimulants and narcotics upon the human system.”).

<sup>87</sup> MD. CODE ANN., EDUC. § 7-411(a) (West 2017) (“The State Board shall develop and implement a program of drug addiction and prevention education in the public schools.”).

<sup>88</sup> MASS. GEN. LAWS ANN. ch. 71, § 96 (West 2016) (“Each public school shall have a policy regarding substance use prevention and the education of its students about the dangers of substance abuse.”).

<sup>89</sup> MICH. COMP. LAWS ANN. § 380.1170(1) (West 2024) (“Instruction shall be given in physiology and hygiene, with special reference to substance abuse, including the abusive use of tobacco, alcohol, and drugs, and their effect upon the human system.”).

<sup>90</sup> MISS. CODE ANN. § 37-161-7 (West 2023) (“The State Board of Education shall develop a wellness curriculum . . . Such wellness curriculum shall include . . . abstinence from use of tobacco and alcohol.”).

<sup>91</sup> MO. CODE REGS. ANN. tit. 5, § 20-200.260(G)(5) (2023) (“In health/physical education, students in Missouri public schools will acquire a solid foundation which includes knowledge of . . . Methods used to assess health, reduce risk factors, and avoid high risk behaviors (such as violence, tobacco, alcohol and other drug use)[.]”).

<sup>92</sup> MONT. ADMIN. R. 10.53.708 (2017) (“(1) The health standards for sixth through eighth grades are that each student will be able to: (a) comprehend concepts related to health promotion and disease prevention to enhance personal health by . . . (iii) analyzing behaviors that promote health enhancing strategies for issues such as substance abuse prevention[.]”); MONT. ADMIN. R. 10.53.709 (2017) (“(1) The health standards for ninth through twelfth grades are that each student will be able to: (a) comprehend concepts related to health promotion and disease prevention to enhance personal health by . . . (iii) developing personal health-enhancing strategies for issues such as substance abuse prevention[.]”).

<sup>93</sup> NEB. REV. STAT. ANN. § 79-712 (West 2013) (“Provisions shall be made by the proper local school authorities for instructing the pupils in all public schools in a comprehensive health education program which shall include instruction (1) as to the physiological, psychological, and sociological aspects of drug use, misuse, and abuse[.]”).

<sup>94</sup> NEV. ADMIN. CODE 389.381 (2022):

Instruction in sixth grade, seventh grade and eighth grade in health must be designed so that pupils meet the following performance standards by the completion of the eighth grade: 1. Comprehend concepts related to the promotion of health and the prevention of disease to enhance health, as demonstrated by the ability of the pupil to . . . (g) Analyze the use of a substance that is beneficial to a person and the use of a substance that is harmful to a person[.]

*Id.*; NEV. ADMIN. CODE 389.455 (2022):

Instruction in high school in health must be designed so that pupils meet the following performance standards by the completion of high school: 1. Comprehend concepts related to the promotion of health and the prevention of disease to enhance health, as demonstrated by the ability of the pupil to . . . (e) Analyze the physiological, psychological and social effects of substance use disorder[.]

*Id.*

2024] *FENTANYL-SPECIFIC DRUG EDUCATION* 715

Hampshire,<sup>95</sup> New Jersey,<sup>96</sup> New Mexico,<sup>97</sup> New York,<sup>98</sup> North Carolina,<sup>99</sup> North Dakota,<sup>100</sup> Ohio,<sup>101</sup> Oklahoma,<sup>102</sup> Oregon,<sup>103</sup> Pennsylvania,<sup>104</sup> Rhode

---

<sup>95</sup> N.H. REV. STAT. ANN. § 189:11-d(1) (2022) (“Each public school in the state, as part of the school board-approved kindergarten through grade 12 health education program, shall provide age and developmentally appropriate drug and alcohol education to pupils[.]”)

<sup>96</sup> N.J. STAT. ANN. § 18A:40A-1 (West 2023) (“Instructional program on the nature of drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances . . . shall be taught in each public school and in each grade from kindergarten through 12[.]”)

<sup>97</sup> N.M. CODE R. § 6.29.6.9 (LexisNexis 2024) (“Students will . . . (b)(i) understand risk factors and their association with health consequences in the areas related to . . . alcohol, tobacco and other drug use[.]”); N.M. CODE R. § 6.29.6.10 (LexisNexis 2024) (“Students will: (1)(a) differentiate between risks and benefits regarding choices in the areas related to . . . alcohol, tobacco and other drug use[.]”)

<sup>98</sup> N.Y. EDUC. LAW § 804(2) (McKinney 2021) (“All schools shall include, as an integral part of health education, instruction so as to discourage the misuse and abuse of alcohol, tobacco and other drugs[.]”)

<sup>99</sup> N.C. GEN. STAT. ANN. § 115C-81.20(g) (West 2017) (“Sequential, age-appropriate instruction shall be provided that includes all of the following: . . . (2) Presents a clear and consistent message that the use of alcohol and unlawful drugs and the misuse of other drugs are unhealthy and harmful[.]”)

<sup>100</sup> N.D. CENT. CODE ANN. § 15.1-21-01 (West 2023) (“To be approved by the superintendent of public instruction, each public and nonpublic elementary and middle school shall: (1) Provide to students instruction in . . . f. Health, including . . . the nature and effects of alcohol, tobacco, and narcotics.”)

<sup>101</sup> OHIO REV. CODE ANN. § 3313.60(A) (West 2023):

The board of education . . . shall prescribe a curriculum . . . [T]here shall be included the study of the following subjects: . . . (5) Health education, which shall include instruction in: . . . (b) The harmful effects of and legal restrictions against the use of drugs of abuse, alcoholic beverages, and tobacco[.]

*Id.*

<sup>102</sup> OKLA. STAT. ANN. tit. 70, § 1210.229-5 (West 2023) (“The State Superintendent of Public Instruction . . . shall: 1. Establish objective criteria, guidelines and a comprehensive integrated curriculum for substance abuse programs[.]”)

<sup>103</sup> OR. REV. STAT. ANN. § 336.222 (West 2012) (“[E]ach district school board shall adopt a comprehensive alcohol and drug abuse policy and implementation plan, including . . . (1) Alcohol and drug abuse prevention curriculum[.]”)

<sup>104</sup> 24 PA. STAT. AND CONS. STAT. ANN. § 15-1547 (West 2017) (“[E]ach public school student shall receive mandatory instruction in alcohol, chemical and tobacco abuse in every year in every grade from kindergarten through grade twelve[.]”)

716 *EQUAL RIGHTS & SOCIAL JUSTICE* [Vol. 30:3]

Island,<sup>105</sup> South Carolina,<sup>106</sup> Tennessee,<sup>107</sup> Texas,<sup>108</sup> Utah,<sup>109</sup> Vermont,<sup>110</sup> Virginia,<sup>111</sup> Washington,<sup>112</sup> West Virginia,<sup>113</sup> Wisconsin<sup>114</sup>) and the District of Columbia<sup>115</sup> have mandated or strongly recommended alcohol and drug use or abuse education for middle school and/or high school students. Four states (Arkansas, Hawaii, Kansas, and Minnesota)<sup>116</sup> have non-codified

<sup>105</sup> 16 R.I. GEN. LAWS ANN. § 16-22-12(a) (West 2022) (“The school committees . . . shall provide for the incorporation of mandatory instruction of students in grades one through twelve (12) on the effects of alcohol and substance abuse[.]”).

<sup>106</sup> S.C. CODE ANN. REGS. 43-234(V)(B)(2) (2023) (“[S]chools must provide age-appropriate instruction regarding the dangers in the use and abuse of alcohol, tobacco, and other drugs.”).

<sup>107</sup> TENN. CODE ANN. § 49-1-402 (West 2021) (“The state board of education . . . may implement the curriculum for a statewide drug abuse resistance education[.]”).

<sup>108</sup> TEX. EDUC. CODE ANN. § 28.002 (West 2023) (“(a) Each school district that offers kindergarten through grade 12 shall offer, as a required curriculum: . . . (2) an enrichment curriculum that includes: . . . (B) health, with emphasis on: . . . (ii) mental health, including instruction about . . . substance abuse[.]”).

<sup>109</sup> UTAH CODE ANN. § 53G-10-405 (West 2020) (“(1) The state board shall adopt rules providing for instruction at each grade level on the harmful effects of alcohol, tobacco, electronic cigarette products, and controlled substances upon the human body and society.”).

<sup>110</sup> VT. STAT. ANN. tit. 16, §906 (West 2020):

(b) For purposes of this title, the minimum course of study means learning experiences adapted to a student’s age and ability in the fields of: . . . (3) physical education and comprehensive health education, including the effects of tobacco, alcoholic drinks, and drugs on the human system and on society[.]

*Id.*

<sup>111</sup> VA. CODE ANN. § 22.1-206(A) (West 2022) (“Instruction concerning drugs and drug abuse shall be provided by the public schools[.]”).

<sup>112</sup> WASH. REV. CODE ANN. § 28A.230.020 (West 2016) (“All common schools shall give instruction in . . . the effects of alcohol and drug abuse on the human system[.]”).

<sup>113</sup> W. VA. CODE ANN. § 18-2-7b (West 2020) (“(b) . . . a county board shall implement comprehensive drug awareness and prevention programs for students in grades K through 12 to receive instruction regarding the dangers of substance abuse.”).

<sup>114</sup> WIS. STAT. ANN. §118.01 (West 2018):

(2) . . . (d) [E]ach school board shall provide an instructional program designed to give pupils: . . . 2. Knowledge of the human body and the means to maintain lifelong health, including: . . . c. Knowledge of . . . the effects of controlled substances . . . and alcohol upon the human system[.]

*Id.*

<sup>115</sup> D.C. MUN. REGS. tit. 5-E, § 2304.3 (2024) (“The Superintendent shall ensure that health instruction . . . is taught . . . in at least eleven (11) content areas including . . . (e) tobacco, alcohol, and other drug education[.]”).

<sup>116</sup> See ARKANSAS DEP’T EDUC., ARKANSAS HEALTH & SAFETY & PHYSICAL EDUCATION STANDARDS (available at: [https://dese.ade.arkansas.gov/Files/20201209134403\\_ADE\\_0119-001.HealthDocument.J.pdf](https://dese.ade.arkansas.gov/Files/20201209134403_ADE_0119-001.HealthDocument.J.pdf)); HAWAII STATE DEP’T EDUC., NATIONAL HEALTH EDUCATION STANDARDS IN HAWAII (2022) (available at: <https://www.hawaiipublicschools.org/DOE%20Forms/Health%20and%20Nutrition/HealthStandards.pdf>); KANSAS MODEL CURRICULAR STANDARDS FOR HEALTH EDUCATION (2018) (available at: [https://www.ksde.org/Portals/0/CSAS/Content%20Area%20\(F-L\)/Health%20Education/Kansas%20Model%20Curricular%20Standards%20for%20Health%20Education%20rev110218.pdf?ver=2018-11-02-133420-393](https://www.ksde.org/Portals/0/CSAS/Content%20Area%20(F-L)/Health%20Education/Kansas%20Model%20Curricular%20Standards%20for%20Health%20Education%20rev110218.pdf?ver=2018-11-02-133420-393)); MINNESOTA DEP’T EDUC., MINNESOTA NATIONAL

2024] *FENTANYL-SPECIFIC DRUG EDUCATION* 717

policies regarding alcohol and drug use or abuse for middle school and high school students. The remaining two states (South Dakota and Wyoming)<sup>117</sup> do not address alcohol and drug use or abuse in middle schools or high schools. Many of the statutes and regulations address substance use and abuse generally, instructing schools to educate students on their harmful effects.<sup>118</sup>

*C. Recent Developments*

## 1. Addressing Opioids in Drug Education

In response to the opioid crisis, several states have added specific requirements or recommendations for opioid misuse education in their

---

HEALTH EDUCATION STANDARDS AND MINNESOTA BENCHMARKS (2007) (available at: <https://education.mn.gov/mdeprod/groups/educ/documents/hiddencontent/mdaw/mda1/~edisp/005242.pdf>).

<sup>117</sup> This topic is not addressed in state statutes or regulations in South Dakota and Wyoming.

<sup>118</sup> See *supra* notes 71-115.

718 *EQUAL RIGHTS & SOCIAL JUSTICE* [Vol. 30:3]

statutes addressing education requirements.<sup>119</sup> In 2017, Maryland<sup>120</sup> and Pennsylvania<sup>121</sup> revised their statutes to include opioid-specific language. The following year, New York followed,<sup>122</sup> and in 2020, so did West

---

<sup>119</sup> See e.g., MD. CODE ANN., EDUC. § 7-411(c)(1) (West 2017) (“The program shall include instruction related to heroin and opioid addiction and prevention”); 24 PA. STAT. AND CONS. STAT. ANN. § 15-1547(a.1) (West 2022):

Beginning with the 2018-2019 school year, for students in grades six through twelve, the instruction required under subsection (a) shall include instruction related to the prevention of opioid abuse, with an emphasis on the prescription drug epidemic and the connection between prescription opioid abuse and addiction to other drugs, including heroin.

*Id.*; N.Y. EDUC. LAW § 804(6)(a) (McKinney 2021):

The commissioner is authorized to make recommendations to the board of regents beginning December first, two thousand fourteen and every three years thereafter relating to the modernization of such instruction required pursuant to subdivision one of this section, to include the most up to date age appropriate information available regarding the misuse and abuse of alcohol, tobacco and other drugs, including but not limited to heroin and opioids.

*Id.*; W. VA. CODE ANN. 18-2-7b(d) (West 2020):

Beginning with the 2018-2019 school year, instruction required pursuant to §18-2-9 of this code in the subject of health education in any of the grades six through 12 as considered appropriate by the county board shall include at least 60 minutes of instruction for each student on the dangers of opioid use, the additive characteristics of opioids, and safer alternatives to treat pain.

*Id.*; KY. REV. STAT. ANN. § 158.6453(18)(b) (West 2022) (“The academic standards in practical living skills for elementary, middle, and high school levels shall include a focus on drug abuse prevention, with an emphasis on the prescription drug epidemic and the connection between prescription opioid abuse and addiction to other drugs, such as heroin and synthetic drugs.”); CONN. GEN. STAT. ANN. § 10-16b(a) (West 2022) (“In the public schools the program of instruction offered shall include at least the following subject matter, as taught by legally qualified teachers . . . substance abuse prevention, including instruction related to opioid use and related disorders.”); OHIO REV. CODE ANN. § 3313.60(A) (West 2023):

The board of education of each city, exempted village, and local school district and the board of each cooperative education school district established . . . shall prescribe a curriculum for all schools under its control . . . include[ing] the study of the following subjects: . . . (g) Prescription opioid abuse prevention, with an emphasis on the prescription drug epidemic and the connection between opioid abuse and addiction to other drugs, such as heroin.

*Id.*

<sup>120</sup> MD. CODE ANN., EDUC. § 7-411(c)(1) (West 2017) (“The program shall include instruction related to heroin and opioid addiction and preventing, including information relating to the lethal effects of fentanyl.”).

<sup>121</sup> 24 PA. STAT. AND CONS. STAT. ANN. § 15-1547(a.1) (West 2022):

Beginning with the 2018-2019 school year, for students in grades six through twelve, the instruction required under subsection (a) shall include instruction related to the prevention of opioid abuse, with an emphasis on the prescription drug epidemic and the connection between prescription opioid abuse and addiction to other drugs, including heroin.

*Id.*

<sup>122</sup> N.Y. EDUC. LAW § 804(6)(a) (McKinney 2021):

2024] *FENTANYL-SPECIFIC DRUG EDUCATION* 719

Virginia.<sup>123</sup> Additionally, Kentucky,<sup>124</sup> Connecticut,<sup>125</sup> and Ohio<sup>126</sup> have all since revised their state statutes to include opioid-related language.

## 2. Promoting the Use of Fentanyl Test Strips

In addition to amending education requirement statutes, some schools have started to promote the use of fentanyl test strips (“FTS”) to help determine whether a pill contains fentanyl.<sup>127</sup> FTS are disposable, single-use tests that can detect the presence of fentanyl or fentanyl analogs<sup>128</sup> through a process that constitutes a form of drug checking.<sup>129</sup> Individuals can use FTS

---

The commissioner is authorized to make recommendations to the board of regents beginning December first, two thousand fourteen and every three years thereafter relating to the modernization of such instruction required pursuant to subdivision one of this section, to include the most up to date age appropriate information available regarding the misuse and abuse of alcohol, tobacco and other drugs, including but not limited to heroin and opioids.

*Id.*

<sup>123</sup> W. VA. CODE ANN. 18-2-7b(d) (West 2020):

Beginning with the 2018-2019 school year, instruction required pursuant to §18-2-9 of this code in the subject of health education in any of the grades six through 12 as considered appropriate by the county board shall include at least 60 minutes of instruction for each student on the dangers of opioid use, the additive characteristics of opioids, and safer alternatives to treat pain.

*Id.*

<sup>124</sup> KY. REV. STAT. ANN. § 158.6453(18)(b) (West 2022) (“The academic standards in practical living skills for elementary, middle, and high school levels shall include a focus on drug abuse prevention, with an emphasis on the prescription drug epidemic and the connection between prescription opioid abuse and addiction to other drugs, such as heroin and synthetic drugs.”).

<sup>125</sup> CONN. GEN. STAT. ANN. § 10-16b(a) (West 2022) (“In the public schools the program of instruction offered shall include at least the following subject matter, as taught by legally qualified teachers . . . substance abuse prevention, including instruction related to opioid use and related disorders[.]”).

<sup>126</sup> OHIO REV. CODE ANN. § 3313.60(A) (West 2023):

The board of education of each city, exempted village, and local school district and the board of each cooperative education school district established . . . shall prescribe a curriculum for all schools under its control[.] [I]n any such curriculum there shall be included the study of the following subjects: (5) Health education, which shall include instruction in: . . . (g) Prescription opioid abuse prevention, with an emphasis on the prescription drug epidemic and the connection between opioid abuse and addiction to other drugs, such as heroin[.]

*Id.*

<sup>127</sup> Nadworny & Gaines, *supra* note 60.

<sup>128</sup> “Fentanyl analogs are illicit—and often deadly—alterations of the medically-prescribed drug fentanyl.” *Fentanyl Analogs*, PAC. NW. NAT’L LAB’Y, <https://www.pnml.gov/explainer-articles/fentanyl-analogs> (last visited Oct. 3, 2023).

<sup>129</sup> LEGIS. ANALYSIS AND PUB. POL’Y ASS’N, *supra* note 39. “Drug checking’ is a form of harm reduction in which drugs purchased on the street are chemically analyzed in order to determine the composition of the substance or the presence of an adulterant.” *Id.* at 1.

720 *EQUAL RIGHTS & SOCIAL JUSTICE* [Vol. 30:3]

to determine if drugs have been adulterated<sup>130</sup> with fentanyl so they can take steps to reduce their risk of overdose.<sup>131</sup> In order to use the strips, testers dissolve a small amount of the substance in water, and then dip the test strip into the liquid for fifteen seconds.<sup>132</sup> Because the test strips are highly sensitive, even a minimal amount of drug residue is sufficient to obtain a result.<sup>133</sup> The test strip is then set on a flat surface until results appear, typically within five minutes.<sup>134</sup> One line indicates a positive result, meaning fentanyl is present in the sample; two lines indicate a negative result.<sup>135</sup> These test strips have proved to be extremely effective and easy to use, detecting the presence of fentanyl with almost one-hundred percent accuracy.<sup>136</sup>

As stated above, some schools have started to promote the use of FTS.<sup>137</sup> For example, the *Piedmont Highlander*, a publication conceived, planned and produced by students<sup>138</sup> at Piedmont High School in Piedmont, California,<sup>139</sup> published an editorial on January 26, 2023, titled: *Fentanyl Awareness*.<sup>140</sup> The editorial is addressed to students and the community at large and urges those that are in possession of illegal substances “to test them for fentanyl before use, and develop a plan in case of any adverse reactions.”<sup>141</sup>

### 3. Stocking Naloxone in Schools

On October 30, 2023, the White House Office of National Drug Control’s Policy Director Doctor Rahul Gupta and U.S. Secretary of Education Miguel Cardona urged that every school in the United States

---

<sup>130</sup> “An adulterant is a chemical which acts as a contaminant when combined with other substances. Adulterants are added to pure substances to extend the quantity while reducing the quality.” Helmenstine, *supra* note 38.

<sup>131</sup> LEGIS. ANALYSIS AND PUB. POL’Y ASS’N, *supra* note 39.

<sup>132</sup> CALIFORNIA DEP’T PUB. HEALTH, TESTING TO PREVENT OVERDOSE: INFORMATION FOR PEOPLE WHO USE DRUGS AND HEALTHCARE PROVIDERS (available at: [https://www.cdph.ca.gov/Programs/CID/DOA/CDPH%20Document%20Library/Fact\\_Sheet\\_Fentanyl\\_Testing\\_Approved\\_ADA.pdf](https://www.cdph.ca.gov/Programs/CID/DOA/CDPH%20Document%20Library/Fact_Sheet_Fentanyl_Testing_Approved_ADA.pdf)).

<sup>133</sup> *Id.*

<sup>134</sup> *Id.*

<sup>135</sup> *Id.*

<sup>136</sup> Amy Lieberman, *Removing Legal Barriers to Drug Checking Can Help Reduce Drug-Related Harm*, NETWORK FOR PUB. HEALTH L. (Apr. 8, 2020), <https://www.networkforphl.org/news-insights/removing-legal-barriers-to-drug-testing-can-help-reduce-drug-related-harm>.

<sup>137</sup> Nadworny & Gaines, *supra* note 60.

<sup>138</sup> *Policies*, PIEDMONT HIGHLANDER, <https://tphnews.com/policies> (last visited Feb. 16, 2024).

<sup>139</sup> *Our School*, PIEDMONT HIGH SCHOOL, <https://phs.piedmont.k12.ca.us/our-school/contact-us> (last visited Feb. 16, 2024).

<sup>140</sup> *Editorial: Fentanyl Awareness*, PIEDMONT HIGHLANDER (Jan. 26, 2023), <https://tphnews.com/19959/opinions/editorials/editorial-fentanyl-awareness>.

<sup>141</sup> *Id.*

2024] *FENTANYL-SPECIFIC DRUG EDUCATION* 721

should carry naloxone, adding that faculty and students alike should be prepared to use the nasal spray to stop an overdose.<sup>142</sup> In addition, the federal Substance Abuse and Mental Health Services Administration has recommended that schools, including elementary schools, keep naloxone on hand as fatal opioid overdoses rise, particularly from the potent drug fentanyl.<sup>143</sup> As of October 2023, thirty-six states have statutory language that expressly allows K-12 schools or employees on their behalf to store, possess, and/or administer opioid antagonists.<sup>144</sup>

<sup>142</sup> Letter from Miguel A. Cardona, U.S. Sec’y Educ. and Rahul Gupta, Dir., Off. Nat’l Drug Control Pol’y to Colleague (Oct. 30, 2023) (available at: <https://www.whitehouse.gov/wp-content/uploads/2023/10/Letter-to-Schools.pdf>).

<sup>143</sup> Rae Ellen Bichell & Virginia Garcia Pivik, *Schools Stock Overdose Reversal Meds, but Some Worry About Stigma*, U.S. NEWS (Oct. 4, 2023), <https://www.usnews.com/news/health-news/articles/2023-10-04/schools-are-stocking-overdose-reversal-meds-but-some-worry-about-stigma>.

<sup>144</sup> See ME. REV. STAT. ANN. tit. 20-A, § 6307 (2023) (opioid antagonists in schools); CONN. GEN. STAT. ANN. § 10-212a (West 2023) (school requirements); R.I. GEN. LAWS ANN. § 16-21-35 (West 2023) (opioid antagonists in schools); N.Y. EDUC. LAW § 922 (McKinney 2023) (overdose prevention in school); N.J. STAT. ANN. § 18A:40-12.24 to 12.27 (West 2023) (opioid antagonists in schools); MD. CODE ANN., EDUC. § 7-426.5 (West 2023) (opioid antagonists in schools); VA. CODE ANN. § 54.1-3408 (West 2023) (opioid antagonists in schools); W. VA. CODE ANN. § 18-5-22d (West 2023) (opioid antagonists in schools); OHIO REV. CODE ANN. § 3715.50-505 (West 2023) (not directly addressed by statute, but any government entity may obtain and maintain a supply of an overdose reversal drug for the purpose of using it in an emergency situation); KY. REV. STAT. ANN. § 217.186 (West 2023) (dispensing naloxone); TENN. CODE ANN. § 49-50-1604 (West 2023) (opioid antagonists in schools); S.C. CODE ANN. § 59-63-95 (2023) (administration of lifesaving medications in schools); GA. CODE ANN. § 31-1-10 (West 2023) (standing order) (opioid antagonists in schools not addressed by statute. However, the statewide standing order expressly includes schools as an eligible entity to receive naloxone); FLA. STAT. ANN. § 1002.20(3)(o) (West 2023) (opioid antagonists in schools); MICH. COMP. LAWS ANN. § 15.675 (West 2023) (possession by government employee); LA. STAT. ANN. § 17:436.1 (2023) (opioid antagonists in schools); ARK. CODE ANN. § 6-18-720 (West 2023) (opioid antagonists in elementary and secondary education); MISS. CODE ANN. § 41-29-319 (West 2023) (immunity provision); IND. CODE ANN. § 20-34-4.5-0.2-6 (West 2023) (opioid antagonists in schools); 105 ILL. COMP. STAT. ANN. 5/22-30 (West 2023) (opioid antagonists in schools); TEX. EDUC. CODE ANN. § 38.221-228 (West 2023) (opioid antagonists in schools); IOWA CODE ANN. § 135.190 (West 2023) (general immunity provisions; opioid antagonists in schools); WIS. STAT. ANN. § 118.29(2)(a) (West 2023) (schools); MINN. STAT. ANN. § 121A.224 (West 2023) (opiate antagonist in schools); OKLA. STAT. ANN. tit. 70 § 1210.242 (West 2023) (authority to administrate naloxone); KAN. STAT. ANN. § 65-16,127 (West 2023) (statewide protocol); NEB. REV. STAT. ANN. § 28-470 (West 2023) (immunity provisions); S.D. CODIFIED LAWS § 13-33A-9-11 (2023) (opioid antagonists in schools); MONT. CODE ANN. § 20-5-426 (West 2023) (opioid antagonists in schools); COLO. REV. STAT. ANN. § 22-1-119.1 (West 2023) (opioid antagonists in schools); ARIZ. REV. STAT. ANN. § 15-341(A)(43) (2023) (naloxone in educational settings); UTAH CODE ANN. § 26B-4-512 (West 2023) (opiate overdose outreach pilot program); NEV. REV. STAT. ANN. § 386.865 (West 2023) (opioid antagonist in schools); CAL. EDUC. CODE § 49415.3 (West 2023) (opioid antagonists in schools); OR. REV. STAT. ANN. § 339.869 (West 2023) (opioid antagonists in schools); WASH. REV. CODE ANN. § 28A.210.390 (West 2023) (opioid antagonists in schools).

#### IV. PROPOSAL: THE NEED FOR STATE LEGISLATION ON FENTANYL-SPECIFIC INSTRUCTION FOR K-12 SCHOOLS

The inclusion of opioid-related language in state statutes dealing with education, the promotion of the use of FTS, and the stocking of naloxone in schools are imperative steps to combating the opioid epidemic. In addition to these essential steps, this Note proposes that states should adopt legislation that requires opioid addiction education in health education standards. Furthermore, states should pass legislation, such as Tucker's Law in Texas,<sup>145</sup> to implement statewide fentanyl awareness campaigns in their respective states and ensure that school districts provide students with comprehensive education on the dangers of fentanyl. House Bill 3908, also known as Tucker's Law, was initiated by a Texas mother who pushed for legislation after her son died from a fentanyl overdose in 2021.<sup>146</sup> Tucker's Law was signed by Governor Greg Abbott on June 17, 2023.<sup>147</sup> House Bill 3908 requires public schools to provide research-based instruction on fentanyl abuse prevention and drug poisoning awareness each year to students in grades six through twelve.<sup>148</sup> The bill also requires the governor to designate a Fentanyl Awareness Week.<sup>149</sup> Fentanyl Awareness Week requires that schools deliver age-appropriate instruction on the dangers of fentanyl.<sup>150</sup> The instruction includes guidelines on suicide prevention, fentanyl prevention, awareness efforts, and expanded health education.<sup>151</sup>

This Note also proposes that states should enact legislation, such as House Bill 3924 in Illinois, which requires both instruction and testing to ensure students understand certain information on the dangers of fentanyl, synthetic opioids, and illicit drugs.<sup>152</sup> House Bill 3924 had bipartisan support, passing unanimously in both the Illinois House and Senate.<sup>153</sup> The bill was approved by the Illinois governor on July 28, 2023, and went into effect on

---

<sup>145</sup> H.B. 3908, 2023 Leg., 88th Sess. (Tex. 2023).

<sup>146</sup> Sara Wilson, *The Pills That Kill: Texas School Districts on HB 3908 Requiring Fentanyl and Drug Abuse Instruction*, KAGS, <https://www.kagstv.com/article/news/community/pills-kill-texas-school-districts-hb-3908-requiring-fentanyl-drug-abuse-instruction/499-d69b8286-b6c6-4d73-9b5c-9baf337aa320> (last updated Aug. 30, 2023, 11:07 PM).

<sup>147</sup> H.B. 3908, 2023 Leg., 88th Sess. (Tex. 2023).

<sup>148</sup> *Id.*

<sup>149</sup> *Id.*

<sup>150</sup> Laurie Todd-Smith, Julia Butch & Samantha Seal, *Toolkit: Combating Fentanyl in Schools*, AM. FIRST POL'Y INST. (Oct. 5, 2023), <https://americafirstpolicy.com/issues/toolkit-toolkit-combating-fentanyl-in-schools>.

<sup>151</sup> Todd-Smith, Butch & Seal, *supra* note 149.

<sup>152</sup> H.B. 3924, 103rd Gen. Assemb., Reg. Sess. (Ill. 2023).

<sup>153</sup> *Id.*

2024] *FENTANYL-SPECIFIC DRUG EDUCATION* 723

January 1, 2024.<sup>154</sup> This bill, which is set to take effect in the 2024-2025 school year, requires that every state-required health course for grades nine through twelve provide instruction, study, and discussion on the dangers of fentanyl.<sup>155</sup> Instruction must include a general explanation of fentanyl, how it is used both legally and illegally, and an explanation of the difference between synthetic and non-synthetic opioids and illicit drugs.<sup>156</sup> The courses also must cover side effects and risk factors.<sup>157</sup> Under the bill, this information can be taught via a licensed educator, school nurse, or school counselor.<sup>158</sup> It is the responsibility of the State Board of Education to develop and make available instructional materials and guidelines to all elementary and secondary schools.<sup>159</sup>

Similar legislation has been introduced or passed in other states, including Oregon,<sup>160</sup> California,<sup>161</sup> and Washington.<sup>162</sup>

Some Oregon school districts already teach about fentanyl risks.<sup>163</sup> In the Beaverton School District,<sup>164</sup> every high-school, middle-school, and choice-school student receives a yearly fentanyl-specific lesson as part of their advisory or health class.<sup>165</sup> These lessons are regularly updated to reflect the current drug landscape.<sup>166</sup> The Beaverton School District also embarks on a week-long fentanyl awareness campaign on their school and district social media accounts, hoping to further educate both students and parents about the dangers of fentanyl.<sup>167</sup> The Oregon Department of Education also has a fentanyl and opioid response toolkit for schools with sample messaging, but, rather than requiring it be used, the Oregon Department of Education guidelines only “strongly encourage schools to adopt policies and practices” to prevent overdoses.<sup>168</sup> Now, Senate Bill

---

<sup>154</sup> *Id.*

<sup>155</sup> *Id.*

<sup>156</sup> *Id.*

<sup>157</sup> *Id.*

<sup>158</sup> *Id.*

<sup>159</sup> *Id.*

<sup>160</sup> S.B. 238, 82nd Leg. Assemb., Reg. Sess. (Or. 2023).

<sup>161</sup> S.B. 10, 2023-2024 Reg. Sess. (Ca. 2023).

<sup>162</sup> S.B. 5923, 68th Leg., Reg. Sess. (Wash. 2024).

<sup>163</sup> Elizabeth Miller, *Oregon Bill to Teach Students About Opioid Dangers Passes the Senate*, OPB (Apr. 4, 2023, 9:00 AM), <https://www.opb.org/article/2023/04/04/oregon-education-opioids-schools-drug-curriculum-good-samaritan-law>.

<sup>164</sup> *Id.*

<sup>165</sup> *Fentanyl Awareness, BEAVERTON SCH. DIST.*, <https://www.beaverton.k12.or.us/departments/communications-community-involvement/fake-and-fatal> (last visited Feb. 18, 2024).

<sup>166</sup> *Id.*

<sup>167</sup> *Id.*

<sup>168</sup> Miller, *supra* note 163.

724 *EQUAL RIGHTS & SOCIAL JUSTICE* [Vol. 30:3]

238<sup>169</sup> directs the Oregon Health Authority, the state Board of Education, and the Alcohol and Drug Policy Commission to work together on materials to create a curriculum about the dangers of fentanyl and other opioids.<sup>170</sup> Under the bill, school districts are required to implement the lessons, which will be available in the 2024-2025 school year.<sup>171</sup>

California has adopted similar measures to reduce the harms of fentanyl.<sup>172</sup> Senate Bill 10, also known as Melanie’s Law, was named in honor of Melanie Ramos, a fifteen-year-old who accidentally overdosed on fentanyl and died in the bathroom of her high school in California in September 2022.<sup>173</sup> Senate Bill 10 mandates that every public school serving students grades seven through twelve include the development of a Comprehensive School Safety Plan<sup>174</sup> to prepare for a situation in which a pupil is suffering or is reasonably believed to be suffering from an opioid overdose.<sup>175</sup> The bill also establishes a state framework to ensure all students understand the growing risk of fentanyl exposure and have access to the resources needed to prevent and respond to fentanyl poisoning and overdoses.<sup>176</sup>

In the state of Washington, Senate Bill 5923<sup>177</sup> and its companion bill, House Bill 1956,<sup>178</sup> require schools to give opioid and fentanyl-use prevention education at least once a year to all students in seventh through

<sup>169</sup> S.B. 238, 82nd Leg. Assemb., Reg. Sess. (Or. 2023).

<sup>170</sup> Miller, *supra* note 163.

<sup>171</sup> S.B. 238, 82nd Leg. Assemb., Reg. Sess. (Or. 2023).

<sup>172</sup> See S.B. 10, 2023-2024 Reg. Sess. (Ca. 2023).

<sup>173</sup> Alisha Kirby, *California Schools Will Take Additional Steps to Protect Students from Fentanyl Under New Law*, CSBA BLOG (Nov. 7, 2023), <http://blog.csba.org/fentanyl-law/#:~:text=Senate%20Bill%2010%20mandates%20that,School%20Safety%20Plan%2C%20or%20CS%20SP>.

<sup>174</sup> *Student Programs and Services Comprehensive School Safety Plans, 2023-24*, ALAMEDA CNTY. EDUC., <https://www.acoe.org/Page/1028#:~:text=California%20Education%20Code%20Section%2032286,responders%20to%20ensure%20they%20are> (last visited Apr. 29, 2024):

California *Education Code* Section 32286 requires each school site to review and update its school safety plan, which must be developed and written by a School Site Council (SSC) or its designated Safety Planning Committee in collaboration with teachers, classified staff, parents, and first responders to ensure they are up-to-date and complete. The plans must have policies and procedures addressing critical issues including: disaster preparedness; crisis response; mental and physical health; earthquake emergencies; school learning environment; discipline, suspension, and/or expulsion; hate crime reporting; child abuse reporting; release of a pesticide or toxic substance; and more.

*Id.*; see CAL. EDUC. CODE § 32286 (West 2020).

<sup>175</sup> S.B. 10, 2023-2024 Reg. Sess. (Ca. 2023).

<sup>176</sup> *Id.*

<sup>177</sup> S.B. 5923, 68th Leg., Reg. Sess. (Wash. 2024).

<sup>178</sup> *Id.*

2024] *FENTANYL-SPECIFIC DRUG EDUCATION* 725

ninth grades.<sup>179</sup> While more districts are taking it upon themselves to warn students about fentanyl, it appears that Senate Bill 5923 and House Bill 1956 would impose the first statewide requirement for education about the drug.<sup>180</sup> If passed and signed by Governor Jay Inslee, the bills would go into effect immediately and materials would need to be updated for use by December 1, 2024.<sup>181</sup> Each of these examples of bills requiring education on fentanyl in schools demonstrate positive examples of how states should be dealing with the opioid epidemic. Speaking of the Washington bills, Representative Mari Leavitt (D-University Place) said that: “This is a component, along with other components across the state, that will provide information to parents who may not be aware of what it is that they’re looking at, or aware of the widespread epidemic we’re seeing with our youth.”<sup>182</sup>

Every state that has not introduced or enacted similar legislation should consider doing so immediately. When implementing legislation, education programs should highlight the danger of purchasing “prescription” pain medications online or on the streets, especially because of fentanyl’s prevalence in these pills and the difficulty in visually distinguishing them from legitimate medications; the symptoms of a fentanyl overdose, including dizziness, abnormal breathing, cold and clammy skin, and blue-colored lips and fingernails; steps to take after a known or suspected overdose, such as calling 9-1-1 and immediately providing basic life support such as CPR; and actions to avoid, such as putting victims into cold water, slapping them, or inducing vomit.<sup>183</sup>

## CONCLUSION

Amid the harrowing opioid epidemic, education emerges as a powerful tool to combat the rising tide of opioid overdose fatalities.<sup>184</sup> Children and teenagers spend most of their days at school or in extra-curricular activities

---

<sup>179</sup> Grace Deng, *Washington Officials Turn to Schools in Fight Against Opioid Epidemic*, WA. STATE STANDARD (Jan. 11, 2024, 5:24 PM), <https://washingtonstatestandard.com/2024/01/11/washington-officials-turn-to-schools-in-fight-against-opioid-epidemic>.

<sup>180</sup> *Id.*

<sup>181</sup> Claire Bryan, *WA House Passes Fentanyl Education Bill*, SEATTLE TIMES, <https://www.seattletimes.com/education-lab/wa-house-passes-fentanyl-education-bill> (last updated Feb. 12, 2024, 7:12 PM).

<sup>182</sup> *Bill Requiring Fentanyl Education in WA Schools Deserves Bipartisan Support*, SEATTLE TIMES, <https://www.seattletimes.com/opinion/editorials/bill-requiring-fentanyl-education-in-wa-schools-deserves-bipartisan-support> (last updated Jan. 18, 2024, 4:04 PM).

<sup>183</sup> Hillary Pettegrew, *Prevent and Respond to Fentanyl Overdoses*, UNITED EDUCATORS (Aug. 2022), <https://www.ue.org/risk-management/health-and-well-being/prevent-and-respond-to-fentanyl-overdoses>.

<sup>184</sup> Emma L. Helfrich, *Stopping the Epidemic: The Role of Education in Opioid Overdose Prevention*, MEDIUM (Oct. 5, 2023), <https://medium.com/@emma.l.helfrich/stopping-the-epidemic-the-role-of-education-in-opioid-overdose-prevention-0624aab1c85c>.

726 *EQUAL RIGHTS & SOCIAL JUSTICE* [Vol. 30:3]

on campus, so it is crucial that they receive comprehensive education on the dangers of fentanyl and the use of drugs from non-official sources.<sup>185</sup> Through education, schools can raise awareness, equip students with life-saving knowledge, and ultimately prevent opioid overdoses.<sup>186</sup> This Note proposes that states follow Oregon, Illinois, Texas, California and Washington's lead and start introducing and passing state legislation that would require schools to provide education on the dangers of fentanyl. Passing this legislation could result in the implementation of statewide fentanyl awareness campaigns and could ensure that school districts provide students with comprehensive education on the dangers of fentanyl. This legislation is key. Fentanyl educational campaigns in schools that break down the stigma of addiction, highlight the dangers of fentanyl, and emphasize the risk of taking pills from people other than a doctor or a pharmacist provide an essential part of the solution to fighting the fentanyl crisis.

---

<sup>185</sup> Todd-Smith, Butch & Seal, *supra* note 149.

<sup>186</sup> *Id.*