

Senate Health and Welfare Committee
Testimony of Grey Gardner, Drug Policy Alliance on H. 222
April 6, 2023

Thank you for the opportunity to testify today.

My name is Grey Gardner. I'm a Senior Staff Attorney for the Drug Policy Alliance. DPA is the nation's leading organization working to advance drug policies centered on science, compassion, health and human rights rather than criminalization and marginalization. For over 30 years, DPA has worked with policymakers in the U.S. and internationally to end harmful drug war policies, and for many years we've had an active presence in Vermont working with local partners on issues ranging from access to substance use disorder treatment, naloxone and fentanyl test strips distribution, and eliminating criminal penalties for drug use and possession for personal use.

Vermont continues to experience an overdose crisis of increased intensity. Fatal overdoses have more than doubled since the years preceding the pandemic and emergency department visits relating to opioid overdoses have increased steadily. As you know, the data for 2021 reflects another record number of fatal overdoses, and they appear to have occurred in every corner of the state. The Health Department also reports that in just the early part of 2022 emergency department visits for opioid related overdose increased beyond prior-year levels.

We support the bill primarily being discussed today, H. 222, which contains important policy changes and funding for overdose prevention, including lowering barrier access to medication for opioid use disorder, supporting recovery housing, expanding access to naloxone, making permanent the decriminalization of buprenorphine, and improving access to harm reduction supplies.

However, more can and must be done to further support evidence-based health and harm reduction strategies. The state must continue to build a more comprehensive response to reducing the incidence of drug overdoses by addressing an increasingly unpredictable drug supply and focusing entirely on keeping people alive.

Comprehensive Drug Checking Programs are an Evidence Based and Cost-Effective Way to Save Lives

One essential strategy for preventing overdoses is the widespread implementation of drug checking services. Within the context of an increasingly unpredictable and potentially dangerous drug supply, drug checking technologies are an important way for people who use drugs to better understand their drugs and identify potential adulterants. Drug checking allows people who use drugs make more informed decisions about the content of drugs they already possess.

There should be strong consensus in this body for supporting robust drug checking. Vermont has for years now been facilitating the distribution of fentanyl test strips, which are a form of

drug checking; but there's more that can be done to help people detect and avoid adulterated substances.

Although fentanyl test strips are one means of determining the presence of fentanyl in a substance, more sophisticated technologies, such as Fourier transform infrared (FTIR) spectroscopy, are capable of providing more complete information about the contents of a substance. Fentanyl test strips can only provide information about the presence of one substance – fentanyl – and provide no information about its concentration. Other substances that can be harmful – including xylazine, gabapentin, and other non-opioid drugs cannot be detected with fentanyl test strips, and overdoses caused by non-opioid substances cannot be reversed using naloxone.

Mass spectroscopy is a standard analytical technique used in laboratories throughout the world, and can be used to determine the chemical composition of a substance both qualitatively and quantitatively. Such machines can be effectively used outside of a laboratory setting and can better detect dangerous substances in the drug supply beyond just fentanyl, such as the sedative xylazine.

Having information about the amount (not just presence) of fentanyl or other compounds in a substance can make a big difference in how people engage with the substance. Peer-reviewed research has found that people who use drugs will sometimes moderate their dosage or drug use behavior patterns (for example by using slower, using in the presence of others, and having naloxone on hand) or even discard a substance they already possess, after receiving drug checking results.

Drug Checking Programs are Operating in Many Communities, Including Throughout New England

There are dozens of dedicated drug checking non-governmental programs operating around the world, including in the United States and Canada. Some operate as part of more extensive overdose prevention centers, others provide drug checking at music festivals or events.

Many of these projects utilize spectroscopy machines at their sites. People bring in substances they already possess and provide a small amount for analysis (or in some programs leave numbered samples in a drop box). Sometimes just the residue remaining in a syringe can be tested, and in many cases the substance are tested while people wait.

Often staff can provide results within an hour – sometimes in considerably less time; and in some programs results are made available to the individual providing the sample with a “harm reduction advice package”, tailored to the test results and the individual circumstances. Sometimes while a person waits or when results are delivered, staff can provide a consultation that may facilitate delivery of other harm reduction services and/or identify further needs of clients.

One initiative operating in the New England region is the Brandeis University-based StreetCheck project. StreetCheck is a web-based platform and app created by the Massachusetts Drug Supply Datastream, the statewide drug checking program. The web platform connects sites across the Northeast, and has other community partners throughout the country, including sites throughout New England states. Those community partner sites often provide direct testing of substances for their clients and anonymized results are tracked, allowing those communities as a whole to have better information about what's emerging in the local drug supply. Having that type of information creates opportunities to get information out to the community (often in the form of alerts to clients and partner organizations) that can reduce risk before tragedies occur. The StreetCheck network has also provided both the app for free to community programs, and support for new programs.

The Legislature Should Move Rapidly to Fund Drug Checking Programs and Eliminate Barriers to Their Implementation

To save lives Vermont should support the establishment of robust drug checking programs statewide, and to build on the great work already being done by community-based harm reduction service providers. The General Assembly should ensure that such providers have adequate resources to obtain the equipment, staff and training necessary to offer high-quality drug checking.

Bills pending in both chambers, S. 119 and H. 423, each proposed starting a pilot project that would allow organizations to apply for funds to support such programs. We believe that such a pilot project is urgently needed, and that funding for such a program should be provided at a higher level than that proposed in the legislation, ideally at the level suggested by some members of the Opioid Settlement Advisory Committee, who proposed providing \$700,000 for such a project. Although the project was not among the initial recommendations forwarded to the legislature by the full committee, we believe that amount would provide a strong foundation for grants that could support programs in all parts of the state.

Organizations like Vermont CARES and other syringe service providers are well-positioned to do this type of work. They have the trusted relationships with clients already in place, talented and dedicated staff, and in many cases connections with other community partners. The most efficient way to start a drug checking pilot project and get this operating as soon as possible would of course be to directly fund the SSPs interested in doing this work.

Additionally, to make these programs effective, it's important to make sure that people feel comfortable bringing their samples in for testing, and that staff are protected from any potential criminal charges related to this work. The Streetcheck program has worked to secure memoranda of understanding with some local law enforcement agencies and/or prosecution offices, but doing so can be time consuming and may not provide universal protection for all organizations, especially those trying to serve people in rural areas. If, for example, a staff member goes to pick up a sample from a neighboring community and crosses multiple

jurisdictions, they may be exposed to risk of arrest and even prosecution if not all law enforcement entities are participating partners.

Clients also need to be assured that they will not be targeted by law enforcement for participating in these programs. Building trust is essential for getting people to widely utilize drug checking and hopefully then participate in other services offered by these harm reduction organizations. Thus, maintaining the confidentiality of those who utilize the service is essential to maximizing the benefits of the program. S. 119 contains language that would both protect individual participants and staff from the risk of arrest for engaging with or providing such services, and language intended to ensure the anonymity of participants who use the services.

Conclusion

As this crisis continues and in fact gets worse, it's clear that we need to utilize every available tool to keep people safe and act with urgency. Drug checking is not an issue where there should be any concerns about moving forward too quickly or needing further study. Just this week several more states took up legislation to permit distribution of fentanyl test strips, which Vermont facilitated years ago.

Vermont should again take a leadership position among states on vital and harm reduction strategies including not only drug checking, but also overdose prevention centers and comprehensive decriminalization of personal use amounts of drugs. We need to open more doors instead of driving people away from services by threatening arrest, punishment, stigmatization, and marginalization.

We appreciate the work of the Committee to consider these issues and would be happy to provide any further information or assistance that may support your efforts.