Everyone wants to be prepared, which is the motto the Boy Scouts have been promoting for almost 100 years. Every person who takes a first aid case wants to be a savior, to bring a person home alive, to rescue the dying and give the near-dead a second chance at life. Even more, no one wants to feel “if they had only”, they might have saved someone. To meet those personal needs, some first aid instructional programs have started training beyond what is defined as first aid. First aid providers are marketing themselves by saying they teach more than anyone else in the field. That includes teaching the use of prescription drugs and invasive procedures. Many Wilderness First Responder (WFR) programs teach that carrying prescription drugs into the woods is ok or even required to meet the standards of the industry. However industry standards, no matter how well-meaning, cannot violate the law.

This change is in sharp contrast with the fear of providing any drug just a dozen years ago. Programs taught you should not give someone aspirin for fear of the legal repercussions. However, on the surface, that is an easier issue to answer than the question of offering someone a prescription drug that was not prescribed for them. If a child can buy the medicine at the corner convenience store, then you can feel relatively comfortable giving that medicine to someone on your program – provided they don’t have an allergic reaction to what you gave them and subsequently suffer serious injury or worse, death – that would be bad.

**Back to prescription drugs**
The federal government and in a few situations some state governments have determined that certain drugs can cause harm if in the wrong hands or if used incorrectly. These drugs have been classified or identified as prescription drugs. This federal classification has been adopted by most states also. These prescription drugs have been further classified into groups that control their use, how they are prescribed, who may prescribe them and who they may be prescribed too.

Normally, you must contact a person authorized by the Federal government to receive permission to buy or possess prescription drugs. You may better understand this as going to the doctor and receiving a prescription. A physician licensed by the state to practice medicine is issued an identification drug number by the Drug Enforcement Administration (DEA). The doctor examines you and writes the prescription in your name. The drug container must contain the name of the prescription provider (pharmacy), the doctor’s name, and the name of the person receiving the prescription. Every person from the manufacturer to the drug store tracks the drugs and all are subject to an audit. The
prescription process applies to all prescription drugs.

Several of these prescription drugs have now been deemed necessary to carry by outdoor recreation programs. The logic, it seems, is that watching a person die far from professional medical help, no matter how remote a possibility this is, when something could have been done is far worse than the risk of administering a prescription drug without a license. The main drug found in many programs is epinephrine, used when a person is suffering anaphylaxis. Epinephrine does not stop the anaphylaxis, however it does slow the reaction so that Benadryl, a non-prescription drug can be used to control the problems. This situation occurs most often when a person has an allergic reaction to a bee or insect sting or has a reaction to food.

Additional prescription drugs or potentially illegal items that are being carried are prescription pain relievers such as Tylenol 4 (Tylenol with codeine), suture material or kits, and more. Suture kits are a problem because first aid does not involve or include in its definition invasive procedures. Cleaning a wound is one thing, placing objects into the wound or someone’s body is beyond first aid.

A point of clarification
It is not illegal for a person with a known allergy or problem to carry their own prescription for their own use. The drugs will have their name on the prescription as well as the prescribing doctor and information on use for that particular person. People should be encouraged to always bring their own medications on any trip. Programs should make sure that any person on a prescription drug program knows they are responsible for their own prescription drugs.

However the legal issue is when a prescription is carried on the trip with the prescription in the name of a guide or someone who is not on the trip with the program, with the intention to use the prescription on someone whose name is not on the prescription. A worse situation occurs when a physician prescribes a drug to a person who they do not know or have not examined.

Physician issues
Before a physician can prescribe a prescription drug, the physician must examine the patient and establish a physician – patient relationship.

It violates the law in most states and violates federal law for a physician to prescribe a drug to an unknown person or prescribe a prescription drug to a person knowing it will be used by someone the physician has not examined.

The use of the prescription by a person outside of the supervision and control of the physician or not authorized by law to either diagnose or prescribe the drug, let alone administer the drug, also places the physician who prescribed the drug at risk. These third party non-physicians are medical or first aid providers below the training of a nurse in most states, EMT or Paramedic in a few. Most states describe supervision and control as the physician being in the room or the same office as the person administering the drugs.
Non-Physician administration of Epinephrine

In a few states, Paramedics and in even fewer states EMT’s may administer Epinephrine outside of the supervision and control of a physician.

Several other states have enacted laws that allow non-licensed persons (lay persons) to administer a person’s epinephrine. An example is public schools. If a child has a negative reaction the nurse or trained person can administer the child’s prescription to the child. There is a fine point here. The laws allow a third party to administer epinephrine to a person who has their own epinephrine. The law does not allow a person to administer epinephrine that they have or that is not prescribed to the person receiving the epinephrine.

Most of the laws require the schools to set up a plan to be followed for allowing the epinephrine in the school and how it will be administered. In addition, the laws require the person administering the epinephrine to have gone through training before hand. California allows the school to buy epinephrine for use by anyone who needs it.

Program Issue

It violates the law to posses a prescription drug that is not prescribed to you. Administering that drug as a non-physician to someone whose name is not on the prescription is also illegal in most states. Administering a prescription drug to a person who is not a patient of the physician who wrote the prescription is illegal in most states. Camps for years have hired nurses who are licensed to administer epinephrine. Children do not know if they may have a negative reaction to an insect bite or a reaction to a plant or animal. As such, camps have realized their exposure and hired nurses to deal with these issues. Nurses who work for camps have formed an association, the Association of Camp Nurses.

If your program is working with children you should research the legal issues where your camp is located and determined what you are allowed to do.

Adults are an easier issue. Most know of their allergies or negative reactions and you can instruct them to bring the necessary medication they may need.

Training your staff in spotting a negative reaction and how to deal with the reaction is the best solution. Also training your guests in spotting a reaction will bring the issue to the attention of your staff. As mentioned above, epinephrine does not stop the reaction only slow it. Quickly recognizing the problem and administering non-prescription Benadryl as well as activating EMS is the legal and best way to deal with the issue.

Remember also that the SNEWS® Law Review is a legal resource. The SNEWS® Law Review cannot give specific legal advice, nor is the SNEWS® Law Review supposed to provide moral or ethical advice. That conundrum of the conflicting legal and ethical issues is a problem in this situation. However to make a good decision you need to understand the legal issues from a legal resource. With all the facts you can decided how your program will proceed.

Better yet, get laws passed in your state allowing you to carry and administer epinephrine.
The Grand Canyon River Guides Association was instrumental in passing Arizona law A.R.S. § 36-2226 (2008) which allows the river guides to administer epinephrine. From start of the law-writing process to the governor actually signing the law took less than six months.

On the opposite end of the spectrum, wilderness first aid and search and rescue issues are appearing in litigation. See Wilderness medicine and SAR now on TASA’s expert witness radar. A victim on a program of a national wilderness training program was rescued last year with an extremely low pulse. Although denied, the amount of medical waste suggested that it was possible she had been over-medicated with epinephrine. A bad medical outcome coupled with an illegal act means no Good Samaritan coverage, no defense by a release (negligence per se) and possibly criminal charges.