Legal Implications of Using Prescription Drugs in the Backcountry
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Potential legal consequences

CIVIL
• Negligence
• Battery (offensive touching without consent)

CRIMINAL (varies by state)
• Battery
• Dispensing prescription drugs without a license
• Practicing medicine without a license (diagnosing and treating a medical condition beyond what trained/licensed to do)

What to consider when implementing a policy using prescription drugs

• Relevant state law (criminal law, regulations from agencies—i.e. medical licensing boards, boards of pharmacy, office of emergency medical services, etc.)
• Protocols (WMA, WMI, SOLO, etc.)
• Other programs’ policies
  o OB/NOLS
  o Same geographical area
  o Similar programs/operations
• Contraindications (altitude, cold, etc.)
• Worst case scenario for each drug

Potential protections for your guides/instructors and your organization

• Liability release form (usually can cover negligence but not gross negligence)
• Consent (written release authorizing medical treatment and verbal consent at time of dispensing—helps address battery)
• Insurance (verify no exclusion for violations of law or intentional acts)
• Policy/training for guides
  o Inform guides of any potential criminal charges, potential consequences, and fact that organization cannot protect them from criminal liability
  o Train guides on when and how to use drugs, side effects, and contraindications
  o Contact or attempt to contact doctor before administering prescription drugs (because usually need authorization for specific individual receiving medication)
• Staff/advising Doctor
  o Formulate written protocols
  o Train guides
  o Procure drugs in organization’s name, not in any individual’s name
  o Be available for emergencies
  o Confirm whether organization’s or doctor’s insurance will cover any lawsuits