



House Bill 838

Civil Immunity – Emergency Care for Drug Overdose – Protocols

MACo Position: **OPPOSE**

To: Judiciary Committee

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From: Natasha Mehu & Robin Clark Eilenberg

The Maryland Association of Counties (MACo) **OPPOSES** HB 838. This bill undermines valuable protections that were put in place just last year to ensure that first responders and officers administering medical care for a drug overdose were afforded certain immunities under law.

First responders' ability to act quickly and confidently is an essential element of a broad-based strategy to combat heroin misuse and overdoses. By undermining this ability, HB 838 moves Maryland policy in the wrong direction.

The heroin and opioid crisis continues to be a serious public safety and public health threat in Maryland. One tool to counter overdose deaths has been the increased use of naloxone, a life-saving medication that reverses an opioid overdose. The nature of an overdose necessitates immediate action from whomever is first to arrive at the scene to help save a life. In many cases, law enforcement and first responders are the first to arrive and they have increasingly been trained and equipped to use naloxone. Since the start of the state's Overdose Response Program, more than 15,346 individuals have been trained. In FY 15, more than 7,000 individuals were trained: 37% of whom were law enforcement.

Accordingly, Section 5-603 of the Courts and Judicial Proceedings Article confers immunity to those who are often the first to arrive on the scene of a drug overdose and must take immediate action to save a life. HB 838 imposes limits on current immunity protections for law enforcement and first responders and exposes them to increased litigation.

Under the current law, a first responder acting dutifully, responsibly, and in good faith to administer care would not be open to litigious action for the emergency care provided. The responder is protected so long as they have been properly trained and the care provided is not grossly negligent. The protections are not unprecedented as a number of similar immunities are offered in state law.

HB 838 forces even trained first responders to argue for their civil immunity. If protocol is not followed to the letter – which emergency situations sometimes make impossible – the provider would lose immunity. This includes situations where the provider, in good faith and with the full advantages of training, administers naloxone unnecessarily. Even though he or she had every intent to save a life, under HB 838 the responder would now be open to the sort of negligence claims the current law seeks to protect against.

HB 838 would force law enforcement officers and first responders into more costly and time-intensive litigation – time and funds they could be spending in the field saving lives. This comes at a time when the state is gripped with a heroin crisis and the need for overdose response is critical. MACo urges the Committee to honor the current protections in place for law enforcement and first responders fighting heroin overdoses by giving HB 838 an **UNFAVORABLE** report.