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TO: The Honorable Bobby A. Zirkin Chair
Members, Senate Judicial Proceedings Committee
The Honorable Susan C. Lee

FROM: Pamela Metz Kasemeyer
Joseph A. Schwartz, III
J. Steven Wise
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DATE: March 4, 2015

RE: **SUPPORT WITH CLARIFYING AMENDMENT** – Senate Bill 303 –
Criminal Law – Distribution of Heroin or Fentanyl Resulting in Death

On behalf of MedChi, the Maryland State Medical Society (MedChi), the Maryland Chapter of the American College of Emergency Physicians (MDACEP), the Maryland Chapter of the American Academy of Pediatrics (MDAAP), and the Mid-Atlantic Association of Community Health Centers (MACHC), we support Senate Bill 303, but request consideration of a clarifying amendment.

Senate Bill 303 proposes to create criminal penalties for the distribution of heroin and Fentanyl presumably in response to the growing incidence of heroin and prescription drug overdose. The above named organizations strongly support enhancing criminal penalties for those who are illegally distributing these substances and that distribution results in death. However, they are concerned that the bill as drafted without a clarifying amendment could also criminalize the legitimate dispensing of Fentanyl pursuant to a prescription issued by an authorized prescriber. Fentanyl is prescribed for legitimate medical reasons.

It is presumed that the sponsor did not intend to criminalize the legitimate dispensing of Fentanyl. While the definitions in Section 5-601 of the Criminal article differentiate between dispensing and distribution, the language of the proposed statute could lead to misinterpretation. We would therefore request that the Committee consider amending the legislation to clarify that the criminal penalties apply only to the illegal distribution of these substances, thereby protecting the legitimate practice of medicine when Fentanyl is prescribed. We look forward to working with the sponsor to appropriately amend the legislation to ensure clarity.

For more information call:

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