Testimony of Lieutenant Governor Boyd K. Rutherford
Hearing before the Subcommittee on Oversight and Investigations of the House Energy & Commerce Committee

July 12, 2017

Chairman Murphy, Ranking Member DeGette, honorable members of the Subcommittee, thank you for the opportunity to join you today to discuss the State of Maryland’s response to the heroin and opioid crisis ravaging the nation. Tackling this emergency necessitates a coordinated response from federal, state, and local government and Maryland looks forward to continuing to work together with our federal partners to address this challenge.

As Governor Hogan and I traveled throughout Maryland during our 2014 gubernatorial campaign, we heard devastating stories from families and friends hurt from the destruction of heroin and opioid abuse. We quickly realized this epidemic had crept into every corner of our state and cut across all demographics. At the time, though the problem was well known to health and law enforcement personnel who confronted it every day, it received little media attention, and many families suffered in silence.

Since taking office in 2015, we have worked aggressively to raise awareness of and take action to address the heroin and opioid crisis, combat the stigma associated with the disease of addiction, and increase and improve coordination among state and local agencies. Our approach has been multidisciplinary, and includes prevention, treatment, and enforcement strategies. But as this crisis continues to evolve, so must our response to it. Earlier this year, Maryland became the first state in the nation to declare an official State of Emergency in response to this epidemic, which in part allows for improved coordination among government entities at every level. It is only through a multi-pronged approach and intense collaboration by all stakeholders that we can begin to truly solve this problem. I appreciate the opportunity to share some of our strategies and lessons learned with you here today, and hope that we can work together to save the lives of our friends, families, and neighbors.

I. The Opioid, Heroin, and Fentanyl Crisis in Maryland

Maryland, like most of the nation, has experienced an increase in the number of deaths related to opioids. In 2016, 2,089 Marylanders died of alcohol- or drug-related intoxication, a 66% increase
over the number of deaths in 2015.\textsuperscript{1} 89% of these deaths were opioid-related and substantial increases in the number of heroin and fentanyl-related deaths were largely responsible for the overall rise in opioid-related deaths.\textsuperscript{2}

The state has also seen an increase in prescription opioid-related deaths, and so as we address this crisis, we must focus on reducing the inappropriate use of prescription opioids while ensuring patients have access to appropriate pain management. According to several nationwide studies, nearly 80% of heroin users reported using prescription opioids prior to heroin.\textsuperscript{3} In Maryland there were 8,847,085 total CDS prescriptions dispensed in 2016; this equates to more prescriptions dispensed than citizens who reside in the state. A little over 66% of the initial prescriptions last year were written for a supply of more than 7 days.\textsuperscript{4} The number of prescription opioid-related deaths in Maryland has been rising since 2012, in large part as a result of the use of these drugs in combination with heroin and/or fentanyl.\textsuperscript{5}

Further, the challenge we face has evolved. Cheap, powerful, and deadly synthetic opioids have burst onto the market, bringing with them higher overdose rates and even more devastation. Deaths related to fentanyl, a synthetic opioid 50 to 100 times more powerful than morphine, have increased from 29 in 2012 to 1,119 in 2016.\textsuperscript{6} Fifty-eight percent of heroin-related deaths in 2016 occurred in combination with fentanyl.\textsuperscript{7} In Maryland, we have also begun to see deaths related to the synthetic opioid carfentanil, the clinical use of which is to sedate large animals.

As the crisis evolves, so too must our response. Accordingly, Maryland has adopted a multipronged approach, which includes addressing the epidemic from every possible angle. Education and prevention go hand-in-hand with treatment and enforcement, and all are essential components of the state’s efforts to turn the tide against this crisis.

II. Maryland’s Response

Maryland’s Heroin and Opioid Emergency Task Force and Inter-Agency Heroin and Opioid Coordinating Council

https://bha.health.maryland.gov/OVERDOSE PREVENTION/Documents/Maryland%202016%20Overdose%20Annual%20report.pdf
\textsuperscript{2} Ibid.
\textsuperscript{3} National Institute on Drug Abuse. Prescription opioid use is a risk factor for heroin use.
\textsuperscript{4} Maryland Prescription Drug Monitoring Program; information provided by the Vital Statistics Administration.
https://bha.health.maryland.gov/OVERDOSE PREVENTION/Documents/Maryland%202016%20Overdose%20Annual%20report.pdf
\textsuperscript{6} Ibid.
\textsuperscript{7} Ibid.
In February 2015, Governor Hogan issued Executive Order 01.01.2015.12, formally establishing the Heroin and Opioid Emergency Task Force and appointing me as chair. The task force—made up of 11 members with expertise in substance abuse, treatment, and law enforcement, including a mother who lost her daughter to a heroin overdose—was established to advise and assist the governor in establishing a coordinated statewide and multi-jurisdictional effort to improve public awareness, access to treatment, quality of care, alternatives to incarceration for nonviolent drug abusers, and law enforcement coordination.

In addition to creating the task force, Governor Hogan also issued an executive order establishing the Inter-Agency Heroin and Opioid Coordinating Council. The council is a sub-cabinet of the governor and consists of the heads of agencies and offices across all disciplines within the administration. The council was tasked with sharing data and information with one another and the Office of the Governor to support public health and public safety responses to the heroin and opioid epidemic. The council continues to meet in order to ensure fidelity to the task force recommendations and to share new information and developments.

The task force held regional summits throughout the state to listen to the input of concerned Marylanders who had been affected first-hand by the disease of addiction and the opioid epidemic. We heard from more than 220 individuals on the frontlines of the crisis and dozens more submitted written testimony, suggestions, and comments to the task force through its web portal.

The task force took swift action and issued an interim report including 10 recommendations, which could be implemented by the relevant state agency within a few weeks: (1) earlier and broader incorporation of heroin and opioid prevention into the health curriculum; (2) infusion of heroin and opioid prevention into additional school disciplines; (3) heroin and opioid addiction integrated into school service learning projects; (4) student-based heroin and opioid prevention campaign; (5) video PSA campaigns; (6) Maryland emergency department opioid prescribing guidelines; (7) Maryland State Police training on the Good Samaritan Law; (8) Maryland State Police help cards and health care follow-up unit; (9) faith-based addiction treatment database; and (10) launching an Overdose Awareness Week.

In addition to the recommendations, the report also included 10 funding announcements: seven Department of Health and Mental Hygiene allocations to improve access to treatment and quality of care, and three Governor’s Office of Crime, Control, and Prevention grants to support law enforcement efforts.

In December 2015, the task force issued its final report, containing 33 recommendations ranging from prevention and access to treatment to alternatives to incarceration and enhanced law

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enforcement. These recommendations fell into seven categories: expanding access to treatment; enhancing quality of care; boosting overdose prevention efforts; escalating law enforcement options; reentry and alternatives to incarceration; promoting education tools for youth, parents, and school officials; and improving state support services. Each recommendation was fully funded in the administration’s proposed budget.

These 33 recommendations, based on research, discussion, and expert and community feedback, built the foundation of our statewide strategy:

**Expanding Access to Treatment**
1. Implementing a Statewide Buprenorphine Access Expansion Plan
2. Reviewing the Substance Use Disorder Reimbursement Rates Every Three Years
3. Expanding Access to Treatment through Payments to Non-Contracting Specialists and to Non-Contracting Nonphysician Specialists
4. Improving Provider Panel Lists
5. Expanding Access to Training for Certified Peer Recovery Specialists
6. Providing Recovery Support Specialists to Assist Pregnant Women with Substance Use Disorders
7. Transitioning Inmates to Outpatient Addictions Aftercare and Community Providers
8. Incentivizing Colleges and Universities to Start or Expand Collegiate Recovery Programs

**Enhancing Quality of Care**
1. Requiring Mandatory Registration and Querying of the Prescription Drug Monitoring Program
2. Authorizing the Opioid-Associated Disease Prevention and Outreach Program
3. Requiring and Publishing Performance Measures on Addiction Treatment Providers
4. Requiring Continuing Professional Education on Opioid Prescribing for the Board of Podiatric Medical Examiners and Board of Nursing and on Opioid Dispensing for the Board of Pharmacy
5. Requiring Drug Monitoring for Medicaid Enrollees Prescribed Certain Opioids

**Boosting Overdose Prevention Efforts**
1. Expanding Online Overdose Education and Naloxone Distribution
2. Implementing a Good Samaritan Law Public Awareness Campaign

**Escalating Law Enforcement Options**
1. Enacting a Maryland Racketeer Influenced and Corrupt Organization Statute
2. Creating a Criminal Penalty for Distribution of Heroin or Fentanyl Resulting in Fatal or Nonfatal Overdose
3. Creating a Multi-Jurisdictional Maryland State Police Heroin Investigation Unit
4. Designating HIDTA the Central Repository for Maryland Drug Intelligence
5. Enhancing Interdiction of Drug-Laden Parcels

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6. Strengthening Counter-Smuggling Efforts in Correctional Facilities

Reentry and Alternatives to Incarceration
1. Establishing a Day Reporting Center Pilot Program to Integrate Treatment into Offender Supervision
2. Expanding the Segregation Addictions Program in Correctional Facilities
3. Implementing a Swift and Certain Sanctions Grid for Probation and Parole
4. Institutionalizing a Substance Use Goal into the Maryland Safe Streets Initiative
5. Establishing a Recovery Unit at Correctional Facilities
6. Studying the Collateral Consequences of Maryland Laws and Regulations on Employment of Ex-Offenders

Promoting Education Tools for Youth, Parents, and School Officials
1. Creating a User-Friendly Educational Campaign on School Websites
2. Training for School Faculty and Staff on Signs of Student Addiction
3. Promoting Evidence-Based Prevention Strategies that Develop Refusal Skills
4. Support Student-Based Film Festivals on Heroin and Opioid Abuse

Improving State Support Services
1. Implementing Comprehensive Heroin and Opioid Abuse Screening at the Department of Juvenile Services and the Department of Human Resources
2. Establishing the Maryland Center of Excellence for Prevention and Treatment under the Behavioral Health Advisory Council

The final report also recognized the need for treatment on demand and discussed the barriers to such a program. The key to improving access to high-quality treatment lies in creating a delivery system that provides a full continuum of substance use services and care. There are health care facilities in Maryland that are well suited to provide the necessary clinical care and support services for individuals on an urgent basis and assist in transitioning patients to the appropriately assessed level of care. Offering crisis services will relieve pressure on hospital acute-care systems. The $2 million of 21st Century Cures Act funding in support of a 24-hour stabilization center in Baltimore City will be an important step toward a system of treatment on demand.

Key Legislative Actions

Legislation based on several of the task force recommendations was then considered by the Maryland General Assembly, and Governor Hogan signed several key bills that encompass prevention, treatment, and enforcement strategies.

A. Prescription Drug Monitoring Program (PDMP) modifications
A direct result of the Heroin and Opioid Emergency Task Force recommendations, House Bill 437 (2016) requires mandatory registration with the PDMP to all providers that have a license to prescribe or dispense controlled dangerous substances before obtaining a new or renewal controlled dangerous substance registration. Beginning July 1, 2018, a prescriber must (1) request at least the prior four months of prescription monitoring data for a patient before initiating a course of treatment that includes prescribing or dispensing an opioid or a
benzodiazepine; (2) request prescription monitoring data for the patient at least every 90 days until the course of treatment has ended; and (3) assess prescription monitoring data before deciding whether to prescribe or dispense — or continue prescribing or dispensing — an opioid or a benzodiazepine.

B. Increased penalty for knowing distribution of fentanyl or its analogs
Senate Bill 539 (2017), sponsored by the Administration, creates a new felony, punishable by up to 10 consecutive years, for individuals who knowingly distribute fentanyl or a fentanyl analog. The legislation recognizes the deadly impact potent and cheap fentanyl has on our communities by providing law enforcement with more tools to hold drug traffickers accountable.

C. The Prescriber Limits Act of 2017
House Bill 1432 (2017), sponsored by the Administration, requires a health care provider, based on their clinical judgment, to prescribe the lowest effective dose of an opioid and a quantity no greater than the quantity needed for the expected duration of pain severe enough to require an opioid that is a controlled dangerous substance. Certain exceptions are made for patients with chronic illness, receiving pain treatment associated with cancer or palliative care, or receiving medication assisted treatment for a substance use disorder.

D. The Heroin and Opioid Prevention Effort (HOPE) and Treatment Act of 2017
Senate Bill 967/House Bill 1329 (2017), a bipartisan omnibus bill, contains provisions to improve patient education, increase treatment services, and includes the administration’s Overdose Prevention Act, which enables all citizens to access life-saving naloxone without a prescription. The legislation also requires an assessment of drug courts, the creation of a crisis stabilization center, enhancements to the existing state toll-free crisis hotline, the provision of information on all FDA-approved forms of medication assisted treatment, co-prescribing of naloxone with opioids for patients at an elevated risk of overdose, rate increases for behavioral health providers, and standardized hospital discharging protocols for patients treated for an overdose.

E. Heroin and Opioid Education and Community Action Act of 2017 (Start Talking Maryland Act)
SB 1060/House Bill 1082 increases school and community-based education and awareness efforts to continue to bring attention to the crisis and to equip our state’s youth with knowledge about the deadly consequences of opioids. Among other provisions, the legislation requires programming on heroin and opioid related addiction and prevention (including information on fentanyl) beginning in third grade, a county-level school policy on naloxone, the designation of a

school health services coordinator, and community action officials to coordinate school-based community forums and public awareness efforts.

State of Emergency and Opioid Operational Command Center

As the death toll continued to rise, we recognized the need to treat the heroin and opioid crisis as we would treat any other life-threatening emergency. A formal, coordinated, multi-jurisdictional capacity did not exist among state and local health and human services, education, and public safety entities to address and respond to the crisis. The solution was to stand up a formal, coordinated approach utilizing the National Incident Management System to develop both state and local strategic, operational, and tactical-level concepts for addressing the heroin and opioid crisis to protect the residents of Maryland.

In January 2017, Governor Hogan by executive order authorized the Inter-Agency Heroin and Opioid Coordinating Council to establish the Opioid Operational Command Center. The Opioid Operational Command Center (OOCC) brings opioid response partners together to identify challenges, establish system-wide priorities, and capitalize on opportunities for collaboration.

The OOCC is a collaborative effort working across all levels of state and local government. The OOCC is made up of partners representing a broad spectrum of state agencies and coordinating bodies, including:

- Department of Health
- Department of Human Resources
- Department of Juvenile Services
- Department of Public Safety and Correctional Services
- Governor’s Office of Crime Control and Prevention
- Maryland Emergency Management Agency
- Maryland Higher Education Commission
- Maryland Institute for Emergency Medical Services Systems
- Maryland Insurance Administration
- Maryland State Police
- Maryland State Department of Education
- Office of the Attorney General
- High Intensity Drug Trafficking Area

The goals of the OOCC include, but are not limited to, the following:

- Facilitate operational collaboration and coordination among state agencies and local partners working on heroin and opioid-related response initiatives
- Strengthen information management and sharing to partners and the public
- Coordinate the development of stakeholder reports to document system-wide progress
- Develop cross-cutting, multi-disciplinary Opioid Intervention Teams based on local needs, to include training and subject matter expertise
- Coordinate training and resources available to state and local agencies

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On March 1, 2017, based on initial recommendations of the OOCC, Governor Hogan declared a State of Emergency in response to the heroin, opioid, and fentanyl crisis. This declaration activates the governor’s emergency management authority and enables increased and more rapid coordination between the state and local jurisdictions. Maryland needed greater flexibility to activate emergency teams in jurisdictions across the state and engage local communities. The governor’s executive order delegates emergency powers to state and local emergency management officials, enabling them to fast-track coordination among state and local agencies and community organizations, including private sector and nonprofit entities to ensure involvement of the entire community.

As a result of the State of Emergency, the OOCC supported emergency managers and health officers in each jurisdiction as they formed Opioid Intervention Teams that serve as the multi-agency coordinating bodies for the opioid response at the local level. Opioid Intervention Teams bring law enforcement, EMS, hospitals, schools, and other partners together with public health to address the opioid crisis. The OOCC provides ongoing support and coordination for the local jurisdiction Opioid Intervention Teams including funding, best practices guidance, legislative and policy support, and data sharing.

Similar in declaring a state of emergency in Maryland, in order to better manage what we believe to be a national crisis, we request your consideration in using the Federal Emergency Management Agency (FEMA) as outlined in the National Emergency Framework to centralize and coordinate the federal response to this crisis in support of state and local efforts. The National Response Framework is a guide to how the Nation responds to all types of disasters and emergencies. It is built on scalable, flexible, and adaptable concepts identified in the National Incident Management System to align key roles and responsibilities across the Nation.

Our federal, state, and local public health service continues to perform admirably. However, as with most crisis situations those sectors of government who are in the lead are often the last to know they need broader assistance in managing a crisis. The National Emergency Response Framework that provides guidance in crisis management and supports the great capability of the Federal Emergency Management System led by FEMA.

In addition, Maryland launched Before It’s Too Late, a statewide effort to bring awareness to the rapid escalation of the heroin, opioid, and fentanyl crisis in Maryland and to mobilize all available resources for effective prevention, treatment, and recovery. Those looking for help with their own addiction or help for a loved one can access information on treatment and recovery on one web portal, BeforeItsTooLateMD.org.

IV. Funding Allocations

21st Century Cures Act
Thanks to your leadership, Maryland has received $10,036,845 under the 21st Century Cures Act. In addition to state funding commitments, these dollars will allow Maryland to further our prevention and treatment strategies.

Funding from the 21st Century Cures Act will expand our efforts to combat this epidemic. Notably, we will expand education efforts in schools to teach our students about the dangers of opioids, and we will build public awareness efforts to reduce stigma, increase patient-physician communication, and mobilize resources for effective prevention, treatment, and recovery.

Resources will also bolster treatment efforts across the state. 21st Century Cures Act funding will expand treatment beds and adopt a tracking system for bed availability, help fund the establishment of a 24-hour stabilization center in Baltimore City, and expand peer recovery specialists. Additionally, funds will be used to expand access to medication assisted treatment.

21st Century Cures Act funding, along with state funds, will also operationalize a proposal to bring naloxone, the lifesaving drug that can reverse an opioid overdose, to all jurisdictions through coordinated efforts and distribution to local health departments.

State Funding

In addition to fully funding the recommendations of the Heroin and Opioid Emergency Task Force, Governor Hogan’s Fiscal Year 2018 budget included $159 million of non-Medicaid substance use disorder treatment programs and allocated $4 million in new funding to bolster the state’s effort to help those struggling with opioid addiction. The Administration has also directed discretionary federal funding, such as the Byrne Justice Assistance Grants, to programs that support our strategy to confront the crisis.

When Governor Hogan declared a State of Emergency in March, he concurrently announced an additional $50 million in new funding over a five year period to support the state’s efforts. These state funds will supplement federal funds in expanding access to naloxone, building public awareness, and supporting the data and IT needs critical to this fight. The funds will also improve treatment through increasing medication assisted treatment availability; expand the use of Screening, Brief Intervention, and Referral to Treatment (SBIRT) in hospitals and parole, probation and correctional facilities, and improving the statewide 24/7 crisis hotline.

The state will provide $4 million in grants up front to local jurisdictions to be used to address local prevention, treatment, and enforcement priorities. Funding was allocated to jurisdictions with a base amount supplemented by funding based on each jurisdiction’s opioid-related deaths, and does not include other grants and additional funding distribution.

In addition, state funds will reinforce Maryland’s enforcement efforts to disrupt and dismantle drug trafficking organizations. We will continue that state’s heroin coordinator program, which places heroin coordinators in local jurisdictions and promotes an integrated law enforcement and investigative strategy among all Maryland jurisdictions through extensive data-sharing. This, in turn, advances statewide investigations and prosecutions of drug traffickers, as well as referrals for treatment for individuals struggling with addiction.
V. Conclusion

Our work with the Heroin and Opioid Emergency Task Force engendered a greater understanding of the gravity of the heroin and opioid epidemic and has informed our response since. What we heard from community members during our task force work varied, but the underlying message was the same: Maryland needs an all-hands-on-deck approach to confront this crisis. Working with our federal, local, and community partners across all disciplines, we will continue to address the heroin and opioid crisis from every angle.