Testimony before the Joint Committee on Mental Health, Substance Abuse and Recovery

June 19, 2017

Good afternoon Chair Flanagan, Chair Garlick and Members of the Committee. My name is Eran Metzger. I am Director of Psychiatry for Hebrew Senior Life, have practiced psychiatry for over 25 years and am an Assistant Professor of Psychiatry at Harvard Medical School. I am representing the Massachusetts Psychiatric Society (MPS). Thank you for allowing me to speak today in support of Senate bill 1110 and House bill 3204.

The Massachusetts Psychiatric Society represents over 1700 member psychiatrists in Massachusetts, physicians who are committed to providing outstanding medical/psychiatric care through accurate diagnosis and comprehensive treatment of mental illnesses and substance use disorders.

In the field of medicine, case presentations are an important teaching tool in medical education, so with your permission, I'll describe a brief case:

Mr. G is an 88 year-old man who, in spite of having advanced dementia, has been cared for at home by his 84 year-old wife, Mrs. G. Two years ago, when Mr. G developed depression and agitation, his doctor prescribed him an SSRI antidepressant, with good results. Recently, Mr. G tripped and fell at home, fracturing his hip. He was hospitalized in Boston, underwent successful hip replacement surgery, and was transferred to a nursing home for rehabilitation. He was transferred to the nursing home late in the day, and Mrs. G, who no longer drives, was unable to make the trip into Boston from their home in Medfield. The doctor admitting Mr. G to the nursing home, Dr. Y, notes that Mr. G has been taking an antidepressant. During his phone call to Mrs. G, who is her husband's Health Care Agent, he asks if the facility can email her a psychotropic consent form, which she should then sign, scan, and email back as an attachment to the facility, in order that her husband may continue his antidepressant medication that he has been helping him for 2 years.

Members of the committee, you can probably imagine Mrs. G's response. Suffice it to say, Mrs. G was unable to complete the requisite tasks and Dr. Y was faced with the daunting choice of either continuing the medication without written informed consent, thereby violating Section 72BB, or stopping the medication abruptly, placing Mr. G at risk for withdrawal symptoms and possible harm.

This scenario is not hypothetical; since the publication of the Department of Public Health (DPH) Circular Letter implementing Section 72BB a year ago, this scenario has been replayed in facilities across the state.

After the initial DPH Circular Letter was released, I was one of a group of physicians who worked collaboratively with DPH to clarify language and update the psychotropic medication list for a revised Letter. However, because of the language of the original law, we could not change the requirement for written informed consent for psychotropic medication at the time of admission to a nursing home. The bills before you would allow nursing homes to continue, at least temporarily, medically necessary psychotropic medications when written consent cannot be immediately obtained.

The current law requiring written informed consent in order to continue psychotropic medication at the time of admission prevents elderly patients who have the misfortune to suffer from mental illness and/or dementia from receiving the same quality of care at the nursing home which elderly patients without mental illness receive. The bills before you would eliminate the current law's obstruction to providing good clinical care to this vulnerable population. The bills address additional weaknesses in the original law by removing the written consent requirement for two other vulnerable populations: those who are at immediate risk for harming themselves or others, and those who are in hospice care for whom a psychotropic medication could alleviate suffering. I similarly support these provisions of the bills.

House bill 3204 allows for temporary verbal informed consent. I would underscore for the Committee that there is ample precedent in medicine for obtaining verbal telephone consent from a surrogate decision-maker, for interventions as serious as general anesthesia and surgery.

In closing, I wish to thank you for your willingness to consider bills which, while short in length, will have a large and positive impact on some of the Commonwealth's most vulnerable constituents.