



**Testimony of the Michigan HomeCare & Hospice Association (MHHA). Submitted March 7, 2019, to the Michigan Senate Committee on Health Policy and Human Services by Barry Cargill, President & CEO.**

**MHHA Position: Support Senate Bills 127 and 128**

The Michigan HomeCare and Hospice Association (MHHA) is pleased to support Senate Bills 127 and 128. The legislation represents MHHA's highest priority in response to the unintended consequences involving the Opioid legislative package passed in 2017 (PA 246 – 249 of 2017). We wish to express our sincerest appreciation for the leadership of Senators Curt VanderWall and Curtis Hertel Jr. for sponsoring this important legislation to protect the most vulnerable of our citizens from unnecessary pain and suffering at the end of life.

The bill package seeks to exempt hospice prescribers from the Bona Fide Relationship and MAPS Reporting Requirements of PA 246-249.

To protect the public health, Public Acts 248-249 were written to mitigate the number of deaths due to opioid overdoses in our state. While many states are enacting legislation aimed at preventing these deaths, the new law put hospice patients at greater risk of harm. In the states that have enacted similar legislation, hospice and end-of-life practitioners have been exempt from the restrictions on opiate prescribing, due to the intense immediate medical needs of patients at the end of life.

Hospices provide care and comfort to an individual with a life limiting condition during their last days of life. One of the greatest benefits, and challenges for a hospice is keeping patients comfortable and managing pain in keeping with their wishes. In the last days of life, pain can become unbearable intractable and difficult to manage, even with ready access to controlled substances. While in hospice care, controlled substances often need to be immediately added and adjusted to keep the patient comfortable.

The State of Michigan Public Act 249, which was signed on December 27, 2017, stipulates that a prescriber who wishes to provide more than a three-day prescription of a schedule 2-5 controlled substance must first ask a patient about other controlled substances that they may be using, review an electronic report of the patient's past usage of scheduled drugs, and be in a "bona-fide patient prescriber relationship". In the Act a "bona-fide" relationship is described as follows:

*The prescriber has reviewed the patient's relevant medical or clinical records and completed a full assessment of the patient's medical history and current medical condition including a relevant medical evaluation of the patient conducted in person or via telehealth.*

This public act is designed to prevent an escalation in the opiate crisis but will inadvertently hamper normal hospice patient care. At the end of life, almost all health care is provided in the patient's home or place of residence, by licensed nurses using schedule 2-5 medications to prevent pain and suffering. Doctors are contacted in person, by phone or during the interdisciplinary team consultations to provide the medication orders.

Hospice patients are generally not able to travel to a doctor to have a personal visit, thus under the new law, the doctor would have to go to them – in every case, without exception. Hospices in Michigan will sometimes care for patients that are hours away from their offices. Hospices could not staff the army of doctors needed to make all these personal visits and therefore would not be able to care for patients at the most fragile time in their life under this new law.

Pain and symptom management in a hospice setting is currently managed in patients' homes 24 hours a day, 7 days a week. Public Acts 247, 248 and 249 include all Schedule 2-5 medications in its restrictions. These scheduled medications are used in hospice, not just to treat pain, but also to treat coughing, fatigue, difficulty breathing, depression, seizures, anxiety, insomnia, and other distressing physical symptoms. **The new law effectively deprives hospices of the ability to care for and manage patients with dignity at the end of life. These acts threaten to disable hospice care across our state.**

Hospice Care in the home offers greater accountability than in the office when prescribing scheduled medications to terminally ill patients. Nurses and other staff members are present weekly (or more often as needed) to observe the use of these medications and count the number of pills that are in the home. Social workers are involved in every hospice case and frequently visit the home. They assess and observe for possible drug misuse or diversion by the patient or by other members of the household.

Since the Michigan Automated Prescription System (MAPS) requirements have gone into effect (6-1-2018), most hospices have found some way to comply with the MAPS requirement. This has not changed the hospice plan of care, but has added difficulty in continuing hospice standards of patient care. Industry accepted health care protocols are to check MAPS one time when a patient is admitted to hospice but it's unclear if this standard meets the new law and the Michigan Department of Licensing and Regulatory Affairs does not believe the Public Act gave them authority to initiate rules involving MAPS protocols. For this reason, many other states have exempted patients enrolled in hospice from the MAPS reporting requirement. We believe Michigan needs statutory direction so that appropriate health care protocols are implemented by all Michigan hospices.

The Michigan HomeCare and Hospice Association (MHHA) supports efforts to strengthen regulations designed to protect our citizens and safeguard public health. We would also like to highlight the reality that within the scope of the current challenges with the opioid crisis, hospice and palliative patients do not represent the population of individuals for whom addiction and misuse of opioids is an issue.

We request your support to Exempt Hospice Prescribers from the Bona Fide Relationship and MAPS reporting requirement (SB 127 and 128), following the example of many other states implementing similar opiate crisis legislation.

Marti Coplai, President and CEO and Dr. James Boal, Chief Medical Officer, of Angela Hospice are present at the hearing to present oral testimony before the Committee on behalf of MHHA and Angela Hospice. We thank you for your timely attention to this very critical issue.

*About MHHA. Established in 1981, the Michigan HomeCare & Hospice Association is the state trade association for providers of hospice in Michigan. MHHA provides a unified advocacy voice for all components of hospice and promotes high standards of patient care in the delivery of services. MHHA advocates for the role of hospice services within the total health care system. Its membership consists of agencies and organizations providing hospice, home health, private duty, home medical equipment and pharmacy/infusion. More information is available at [www.mhha.org](http://www.mhha.org) or by calling the MHHA office at 517 349-8089. MHHA is located in Okemos, Michigan at 2140 University Park Drive.*