Senate Health and Human Services Committee
Testimony of Mark Casanova, MD
Senate Bill 917 by Sen. Bryan Hughes
April 7, 2021

Thank you, Chair Kolkhorst and members of the committee, for allowing me to speak with you today. I am Dr. Mark Casanova, and I am a palliative medicine specialist in Dallas. Today I am speaking on behalf of the Texas Medical Association and the Texas Hospital Association about one of the most personal and profound stages of patient health care: when a patient nears the end of life.

As physicians we have a moral and ethical obligation to put the best interests of patients above all else, and specifically to do no harm. It is in that carefully considered vein that I speak today about our respectful opposition to Senate Bill 917.

The Texas Advance Directives Act (TADA) was a good law when written in 1999, and it is a good law now. It was adopted by unanimous consent and signed by then-Governor George W. Bush. TADA's aim is to allow patients to make their care preferences known before they need end-of-life care and to protect patients from unnecessary discomfort, pain, and suffering when such harm is not outweighed by any benefit.

No one wants to lose a loved one. When it happens, we must be able to move through an appropriate grief process. SB 917 will lengthen and intensify that grief process by prolonging the dying process.

When patients are dying due to the terminal stages of disease or the expected effects of advanced age, sometimes the best possible medical care is taking measures to relieve suffering while allowing a natural death. Yet SB 917 will prolong the process of dying for many patients. The government would mandate that treatments such as artificial nutrition and hydration may not be withheld, even if the hydration is harming the patient as in the case of an already fluid-overloaded patient with renal failure or heart failure who can't be dialyzed.

Patients and their families have decisionmaking autonomy, including the right to request a particular treatment and the right to refuse a particular treatment. They do not have an unlimited right to require the physician to do anything the patient or family demands. When a patient asks a physician to do something the physician believes is medically inappropriate, the physician may refuse to do so, and the patient may choose to seek

another physician. However, in the case of a patient who cannot make his or her wishes known, the physician cannot so easily end that relationship.

Just as a physician should not be forced to perform an abortion, so a physician should not be required to misuse medical technology to prolong dying. Just as surgeons should not be required to perform surgery they believe to be medically inappropriate, physicians should not be required to use their skills and technologies if they believe doing so is not in the best interest of the patient or is medically inappropriate.

The medical appropriateness of a procedure or service can be determined only by a trained physician and is based on a standard of care to which all physicians adhere. The mere fact that a medical intervention, such as placing a patient on a ventilator that sustains life by forcing the patient to breathe, is possible and will technically function as intended does not make that intervention therapeutically beneficial.

Current law provides a fair, rational, balanced process for resolving such disputes without arbitrarily forcing physicians to abandon their conscience.

Current law recognizes that disagreements can arise between physicians and families in the setting of terminal illness in which families may request either the premature termination of treatment or treatment that promotes suffering and prolongs dying. Rather than giving either the physician or the family all the power, TADA provides an ethical mechanism to resolve the dispute.

This ethical mechanism has safeguard provisions for families and surrogates who request indefinite, artificial life support for their terminally or irreversibly ill loved ones. But the indefinite provision of such treatment on the insistence of a surrogate may create an ethically untenable default position.

Know that TMA and THA strongly and unequivocally opposes any effort to legalize physician-assisted suicide or euthanasia, practices fundamentally inconsistent with the physician’s role as healer. However, government interference mandating the provision of potentially unethical, medically inappropriate services lies outside the standard of care physicians swear an oath to provide.

Thus, physicians at tertiary care centers may not accept critically ill patients from smaller hospitals if doing so commits the physician and facility to open-ended treatment irrespective of the physician’s learned, reasonable medical judgment.

Relegating the deliberations of a health care facility’s medical or ethics committee to mere recommendations both dismisses the independent medical judgment of health care professionals and diminishes the ability of the committee to assist families. In this case, regardless of what the committee recommends, life sustaining treatment would have to be carried forward indefinitely if that is what the family demands, according to this bill. Medical and ethics committees would cease to have a reason to diligently do important work on behalf of families in determining futile care.

Physicians *should not* be required to use their skills and technologies in a medically inappropriate or unethical manner. Yet this bill would require physicians to violate their own conscience and ethics, creating undue emotional burdens and increasing the likelihood of professional burnout, which has escalated during COVID-19 response.

The 85th legislature added language to both the nursing and the pharmacy practice acts ensuring the right to conscience for physicians was protected. Why should physicians not be afforded the same inalienable right to not be forced to do something they find unethical or in violation of their religious beliefs?

Mandating care in perpetuity would prolong dying and potentially exacerbate suffering without therapeutic benefit for patients and their loved ones. If passed, SB 917 would do precisely that.

Thank you for your time today. I recognize this is a difficult topic, and I welcome the opportunity to answer your questions.