

March 9, 2026

Written Testimony in Support of HB 1323

Treatment Decisions for Unrepresented Hospital Patients

Submitted by Dr. Jeffrey Brauer, Pulmonary and Critical Care Physician, Lifebridge Health; and Member of Sinai Hospital Ethics Committee

Madams Chair and Vice Chair, and Members of the Committee, thank you for the opportunity to submit written testimony in strong support of HB 1323.

My name is Jeffrey Brauer. I am a pulmonary and critical care physician. I am submitting this written testimony because I am deeply hopeful that you will take the opportunity to pass a law that will enable a transformative improvement in the care of many of Maryland's most vulnerable - unrepresented patients.

In my 30 years practicing in Maryland, too often, I've been prevented from being able to provide the standard of care for my patient; patients like Mr. J and Ms. P.

Mr. J was an older man who had lost the ability to speak for himself and lacked the capacity to make his own medical decisions. Sadly, he had no family, friends, or other close acquaintances to assist making medical decisions for him or who could help the medical team appreciate what kind of treatment he would have wanted were he able to speak for himself. Mr. J was unrepresented. When I cared for him, fluid was accumulating around his lungs, making it progressively more difficult for him to breathe. His blood count was slowly dropping, impairing his organs from functioning normally. Because there was no one to provide informed consent, I couldn't drain fluid from his lungs or give him a blood transfusion – care available to other patients in a similar situation; care that would have quickly helped him feel better and heal! Legally, only when Mr. J's condition progressed to imminent risk for severe harm or death were these treatments able to be administered. Yet, because of many days of suboptimal care, his organs were likely damaged, and these emergent interventions were now more dangerous. As physicians, we failed to provide Mr. J the care he deserved.

Ms. P was a middle-aged woman who also was unrepresented without capacity. She had severe lung disease and after 14 days on a ventilator, needed a tracheostomy. She also had worsening kidney failure and dialysis was recommended. Because there was no one to serve as her surrogate decision-maker, she could not have a tracheostomy performed

until a guardian was appointed by the court over 6 weeks later, and dialysis could not be done until it became an emergency. These significant delays caused obvious discomfort and were almost certainly detrimental to Ms. P's organs. It was truly awful to be at Ms. P's bedside each day seeing her suffer because she could not get standard medical care.

This was not ethical medicine. We failed to provide beneficial and standard therapies. Care was neither fair nor equitable. The status quo means that unrepresented patients succumb to under-treatment, over-treatment, and delayed treatment. Additionally, this causes moral distress for members of the care team and unnecessarily drives up costs for hospitals and health systems. We can, and must, do better!

Unrepresented patients desperately need thoughtful people to speak for them and help guide their care; the same care other patients receive. HB 1323 will create a vastly better and more equitable system by establishing a multidisciplinary committee of Hospital and non-Hospital based volunteers who will convene quickly and make judicious decisions on the patients' behalf. Legally mandated hospital committees are already assembled for groups such as Institutional Review Boards (IRBs) and Ethics consultative services to ensure that patients who may be vulnerable or have challenging situations have their needs appropriately represented and carefully addressed. There are multiple options to alleviate the burden on hospitals of forming this new committee, such as shared pools of external members. Making this surrogate-decision making committee elective will permit continued substandard and inequitable care to be delivered to many patients; this should not be optional!

I'm asking you to vote for a transformative change in the care of so many vulnerable patients in our state's great hospitals. Please support this bill for them!

Respectfully,

A handwritten signature in black ink, appearing to read 'Jeffrey Brauer', with a stylized flourish at the end.

Jeffrey Brauer, MD

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