COMMONWEALTH OF MASSACHUSETTS

BOARD OF REGISTRATION IN MEDICINE

POLICY 2021-05

GUIDANCE ON STATUTORY PHYSICIAN RESPONSIBILITIES WHEN MAKING AN INITIAL DIAGNOSIS OF ALZHEIMER’S DISEASE

November 18, 2021

On August 9, 2018, Governor Baker signed into law *An Act relative to Alzheimer’s and related dementias in the Commonwealth* (St.2018, c.220). This Act created an advisory council on Alzheimer's disease research and treatment, and set new responsibilities for physicians, including new requirements for completion of a course of training and education on the diagnosis, treatment and care of patients with cognitive impairments, including, but not limited to, Alzheimer’s disease and dementia.

In particular, the Act created G.L. c. 112, § 12G½, which provides, in relevant part:

A physician registered under this chapter shall, upon an initial diagnosis of Alzheimer’s disease of a patient, report the diagnosis to a family member or legal personal representative of the patient and provide to that family member or legal personal representative information and resources related to the diagnosis and treatment of Alzheimer’s disease; provided, however, that the physician shall only report the diagnosis and provide the information if: (i) the physician has first obtained the consent of the patient; or (ii) to the extent consistent with federal and state law or regulation, in the reasonable judgment of the physician, the patient is incapacitated or unable to provide consent.

To assist physicians in fulfilling their obligations under GL c112, § 12G½, the Board of Registration in Medicine offers the following guidance:

1. As a first step, a physician who makes an initial diagnosis of Alzheimer’s disease[[1]](#footnote-1) for a patient needs to determine whether, in the physician’s reasonable judgment, the patient is incapacitated or unable to provide consent.
2. For patients who **are not** incapacitated or unable to provide consent:
   1. The physician’s next step is to initiate a conversation with the patient about Alzheimer’s disease and the importance of notifying a family member who can support the patient.
      1. As part of this conversation, the physician needs to specifically ask the patient to identify a family member or legal representative with whom the physician may discuss the diagnosis.
      2. In particular, the physician must request the patient’s consent for the physician to discuss the diagnosis with the family member or legal representative and to provide the family member or legal representative with resources related to the diagnosis and treatment of Alzheimer’s disease. The patient may provide consent verbally.
      3. While the patient’s consent may be verbal, the physician should document both the conversation and the patient’s consent in the patient’s medical record, along with the name and contact information for the family member or legal representative with whom the diagnosis and resources will be shared. In the event that the patient does not consent, the conversation and the patient’s withholding of consent should also be documented.
   2. If the patient has provided consent, the physician should initiate contact with the family member or legal representative within one week to arrange a discussion and the provision of resources related to the diagnosis and treatment of Alzheimer’s disease.
      1. The conversation with the family member should also be documented in the patient’s medical record.
      2. In the event that the physician is unable to successfully discuss the patient’s diagnosis with a family member or legal representative, the physician should document the attempts made, and should reach out to the patient to discuss an alternate family member or legal representative.
      3. Physicians unable to identify a known family member or friend that can serve in this role can contact the patient’s local Aging Services Access Point (ASAP).  An ASAP can help the patient determine options around building a support system or identify a legal representative if necessary. The patient’s local ASAP can be identified by calling MassOptions at 800-243-4636.
      4. If the physician has concerns about abuse or neglect, the physician can submit a report directly to Elder Protective Services. More information about reporting abuse or neglect is available at [https:\\mass.gov\reporting-elder-abuse-neglect](https://mass.gov/reporting-elder-abuse-neglect).
3. For patients who **are** incapacitated or unable to provide consent:
   1. The physician should ascertain whether the patient has advanced directives in place and identify the person who may lawfully serve as the patient’s medical decision maker.
   2. The physician should initiate contact with the patient’s medical decision maker within one week to arrange a discussion and the provision of resources related to the diagnosis and treatment of Alzheimer’s disease. The conversation with the medical decision maker should also be documented.

1. Consistent with the provisions of *An Act relative to Alzheimer’s and related dementias in the Commonwealth* (St.2018, c.220), references herein to Alzheimer’s disease includes related dementias. [↑](#footnote-ref-1)