

# Does the Concept “Medical Futility” Help Clinicians?

Thaddeus Mason Pope, J.D., Ph.D.

Children’s Mercy Bioethics Center

February 5, 2013

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1. Prevention
2. Consensus
3. New surrogate
4. Unilateral w/h w/d

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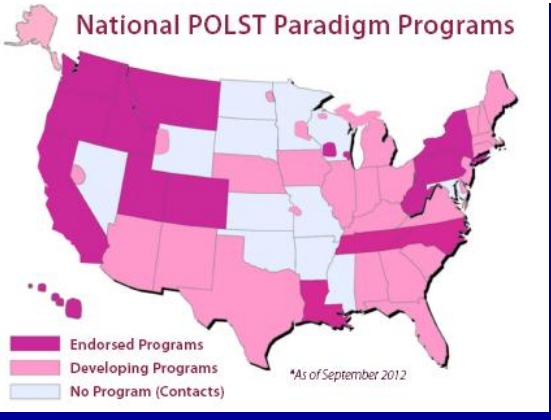
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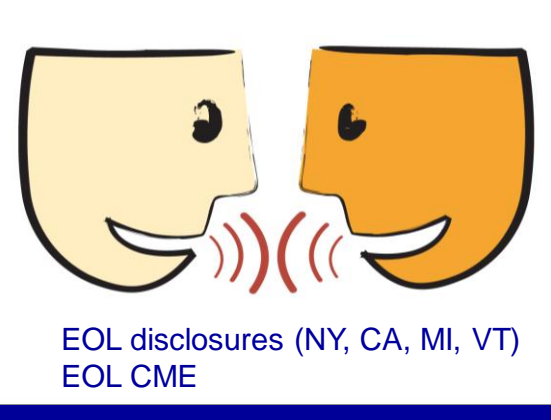
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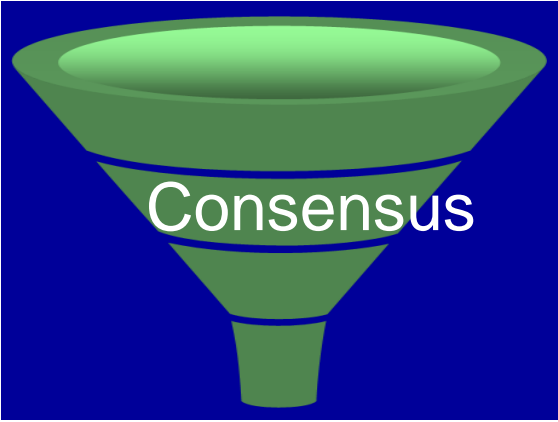
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95%

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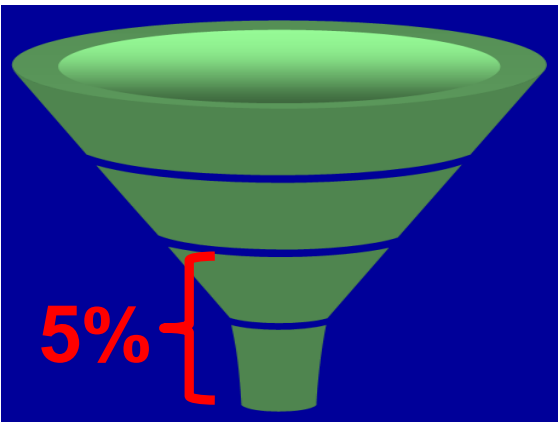
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Substituted judgment

Best interests

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~ 60% accuracy

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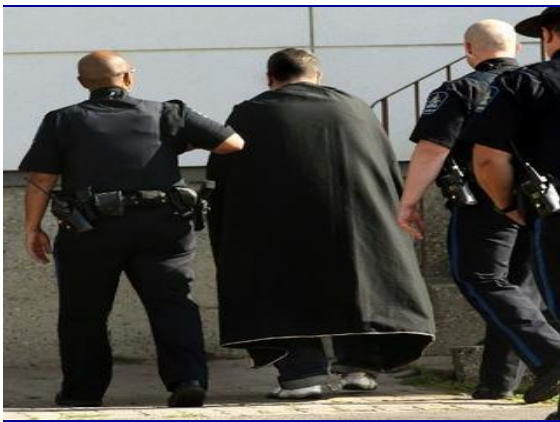
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Albert Barnes

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Dorothy Livadas

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**BUT**

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**Hassan Rasouli**

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# Consent and Capacity Board

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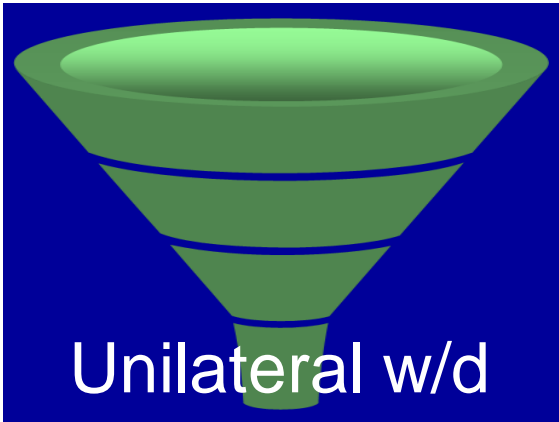
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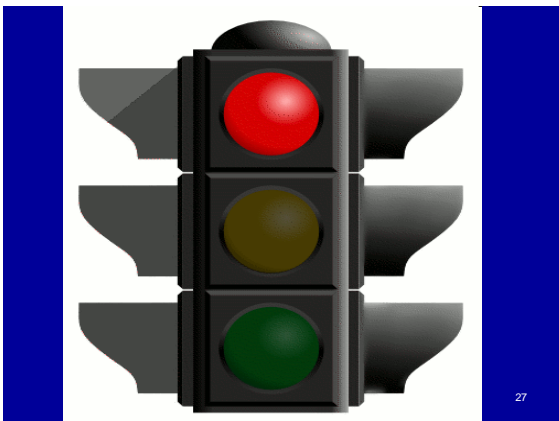
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“If surrogate directs [LST] . . . provider that does not wish to provide . . . **shall nonetheless comply** . . . .”

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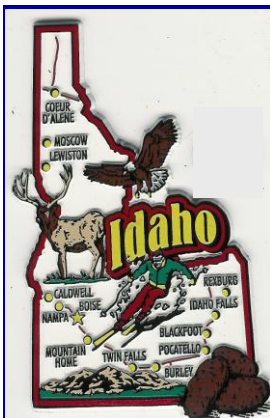
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Discrimination  
in Denial of  
Life Preserving  
Treatment Act

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“Health care . .  
. **may not be** . . .  
**denied** if . . .  
directed by . . .  
surrogate”

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	Futile	Not futile
Stop LST		
Continue LST		OK

32

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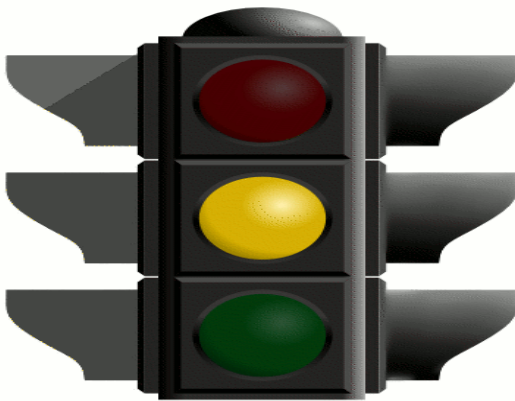
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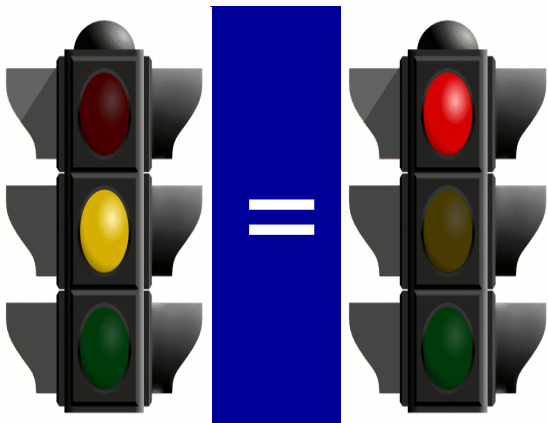
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“generally  
accepted  
health care  
standards”



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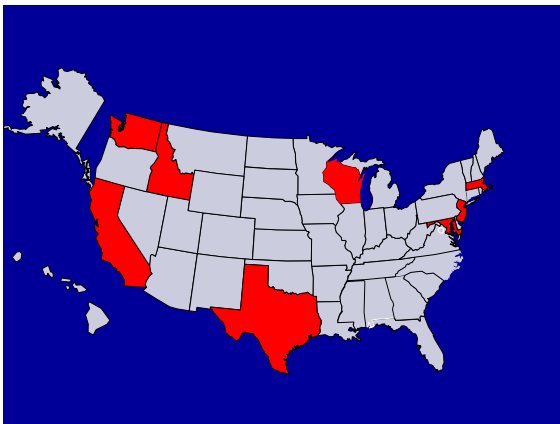
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	Futile	Not futile
Stop LST	OK	
Continue LST		

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	Futile	Not futile
Stop LST		
Continue LST		

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Neutral independent  
decision maker

Appellate review

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# Moving forward

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Tex.  
S.B.  
303

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*We help the world breathe*  
PULMONARY - CRITICAL CARE - SLEEP

Society of  
Critical Care Medicine



The Intensive Care Professionals

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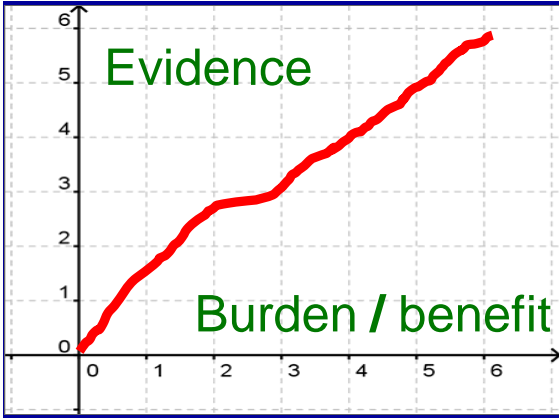
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