

Top 10 Law & Bioethics

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

ASBH Annual Meeting

Atlanta, Georgia

October 26, 2013


Futility

SDM

VSED

Futility





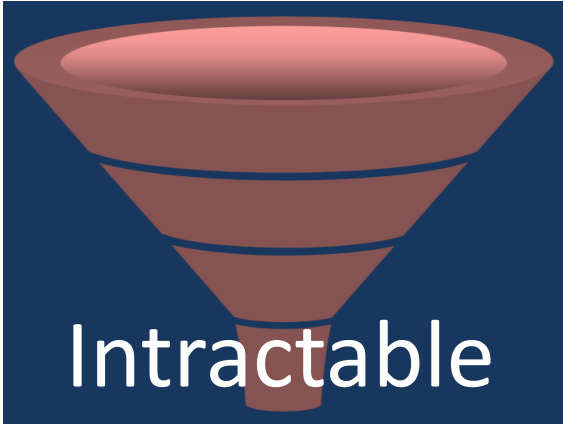
**Consent
and
Capacity
Board**

7



**Prevention
Mediation**

Surrogate swap



Limits

14

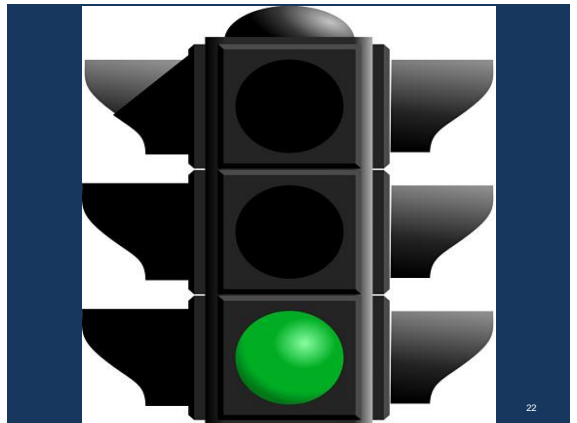
Wanglie
Golubchuk
Watson
S.S.

15

Stop LSMT
without
consent

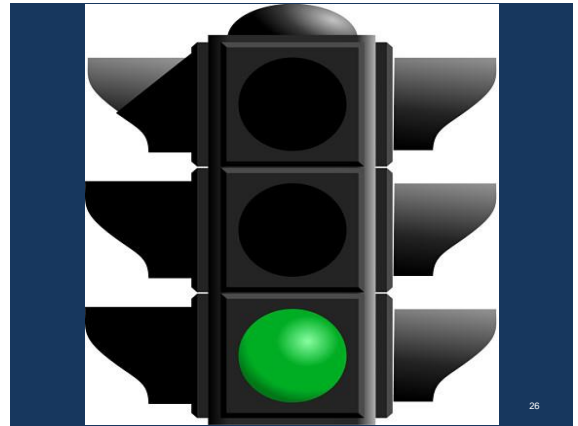
16





CBO

Treat
'til
transfer



26

HIPAA PERMITS DISCLOSURE OF COLST TO OTHER HEALTH CARE PROFESSIONALS AS NECESSARY

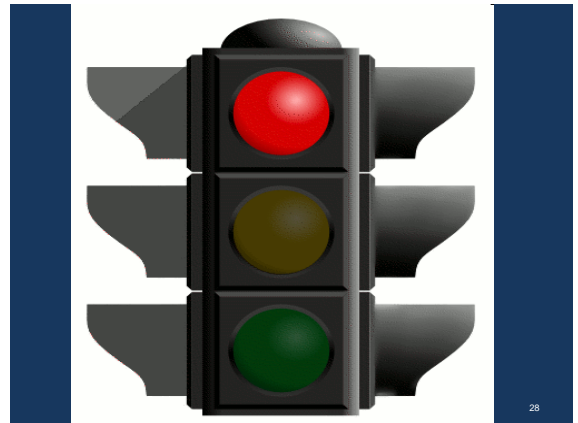
DNR/COLST CLINICIAN ORDERS for DNR/CPR and OTHER LIFE SUSTAINING TREATMENT

Patient Last Name _____
 Patient First/Middle Initial _____
 Date of Birth _____

FIRST follow these orders, THEN contact Clinician.

(If patient/resident has no pulse and/or no respirations)

A	* DO NOT RESUSCITATE (DNR) * <input type="checkbox"/> DNR/Do Not Attempt Resuscitation (Allow Natural Death)	CARDIOPULMONARY RESUSCITATION (CPR) <input type="checkbox"/> CPR/Attempt Resuscitation
	For patient who is breathing and/or has a pulse, GO TO SECTION B – G, PAGE 2 FOR OTHER INSTRUCTIONS. CLINICIANS MUST COMPLETE SECTIONS A-1 THROUGH A-5	
A-1 Basis for DNR Order Informed Consent - Complete Section A-2 Futility - Complete Section A-3		
A-2 Informed Consent Informed Consent for this DO NOT RESUSCITATE (DNR) Order has been obtained from: Name of Person Giving Informed Consent (Can be Patient) _____ Relationship to Patient (Write "self" if Patient) _____		
A-3 Futility (required if no consent) <input type="checkbox"/> I have determined that resuscitation would not prevent the imminent death of this patient should the patient experience cardiopulmonary arrest. Another clinician has also so determined.		



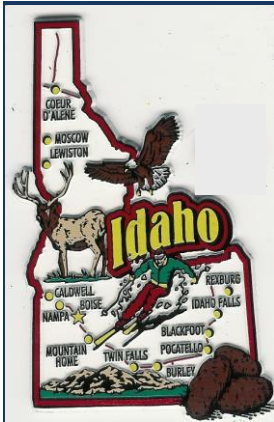
28

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

30



Discrimination
in Denial of
Life Preserving
Treatment Act

31

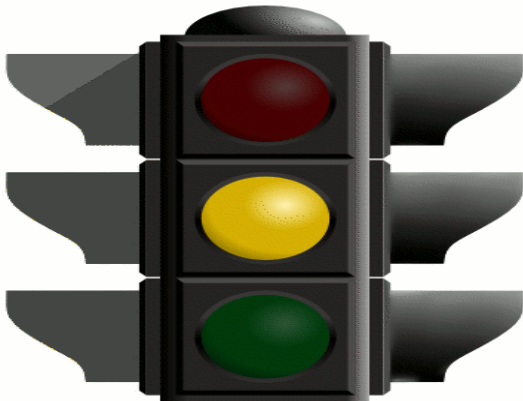
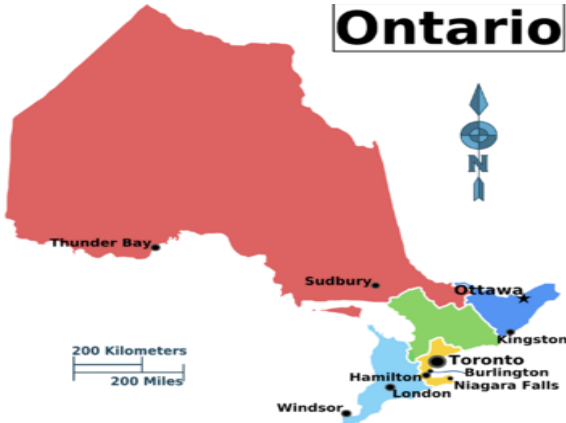
“Health care . .
. **may not be** . . .
denied if . . .
directed by . . .
surrogate”

32



H.B. 1403 (2013)

33



“generally
accepted
health care
standards”



RPA

Renal Physicians Association

SDM

1993 - 2003





**PCORI
CMMI
AHRQ**



VSED

VSED	Voluntarily stopping eating & drinking
VREF	Voluntary refusal of food & fluid
PRNH	Patient refusal of nutrition & hydration
STED	Stopping eating & drinking
VTD	Voluntary terminal dehydration

49



Michael Miller
80yo retired surgeon
End-stage cancer

Able to take food & fluid by mouth

Deliberate decision to stop

Death from dehydration (7-14 days)

51

Peaceful

Comfortable

52



NewsLine

The Monthly Publication of the National Hospice and Palliative Care Organization

Print-friendly PDF From September 2013 Issue

VSED and Hospice Care: A Case Study

“From a **legal standpoint** . . . VSED is an option for individuals in all 50 states”

BUT “peer-reviewed literature does not reflect strong **ethical consensus**”



Legal
“chill”

58





Madeline Neumann



Marjorie Mangiaruca



Margot Bentley

ORIGINAL

6

TO MY FAMILY, MY PHYSICIAN, MY LAWYER & ALL OTHERS WHOSE IT MAY CONCERN

I, Margot R Bentley of Bellevue, BC hereby declare that if the time comes when I can no longer take care in decisions for my future, I wish this statement to stand as an expression of my wishes.

IF AT SUCH A TIME THE SITUATION SHOULD ARISE THAT THERE IS NO REASONABLE EXPECTATION OF MY RECOVERY FROM EXTREME PHYSICAL OR MENTAL DISABILITY, I PREFER THAT I BE ALLOWED TO DIE AND NOT BE KEPT ALIVE BY ARTIFICIAL MEANS OR "HEROIC MEASURES".

I DO ASK THAT MEDICATION BE MERCIFULLY ADMINISTERED TO ME TO ALLEVIATE SUFFERING EVEN THOUGH THIS MAY SHORTEN MY REMAINING LIFE.

I MAKE THIS STATEMENT AFTER CAREFUL CONSIDERATION AND IS IN ACCORDANCE WITH MY CONVICTIONS AND BELIEFS.

I HEREBY ABSOLVE ALL WHO FOLLOW THESE INSTRUCTIONS TO BE FREE OF ANY LEGAL LIABILITY. IN PARTICULAR, I WOULD REQUEST THE FOLLOWING INSTRUCTIONS TO BE CARRIED OUT:

- A. NO ELECTRICAL OR MECHANICAL RESUSCITATION OF MY BODY WHEN IT HAS STOPPED BEATING.
- B. NO NOURISHMENT OR LIQUIDS.
- C. NO MECHANICAL RESPIRATION WHEN I AM NO LONGER ABLE TO SUSTAIN MY OWN BREATHING.
- D. NO SURGERY.

OTHER THAN the above that does not decrease the quality of my life

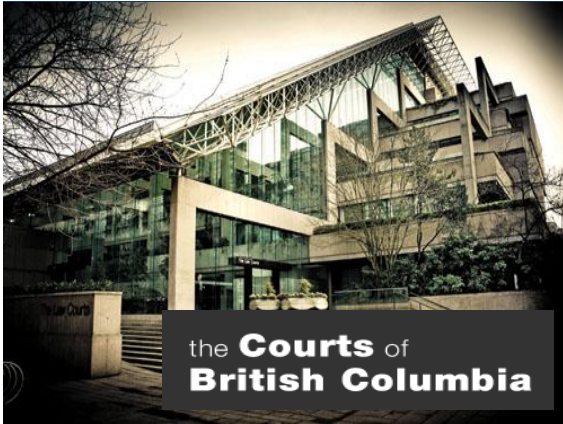
I HEREBY DESIGNATE Margot Bentley AS MY PROXY FOR THE PURPOSE OF MAKING MEDICAL DECISIONS ON MY BEHALF IN THE EVENT THAT I BECOME INCAPACITATED AND UNABLE TO MAKE SUCH DECISIONS FOR MYSELF. SHOULD I BECOME INCAPACITATED, I HEREBY APPOINT Judy Clifford AS AN ALTERNATE PROXY.

WITNESS: Judy Clifford SIGNED: Margot Bentley
 WITNESS: RJ Clifford DATE: Nov 21/11

KATHLENE HAMMOND
 AUG 4, 2013

Margot Bentley
 AUG 4, 2013

“necessaries of life”



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