Divergent Approaches to Medical Futility Disputes: Comparing Great Britain and Australia with Canada and the United States

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End-of-life medical futility (involuntary euthanasia) continues to produce intense ethical, legal, and policy conflicts in many countries. In this session I present the results of a comparative study of medical futility laws in Great Britain, Australia, Canada, and the United States. Health care providers in each of these four countries are still struggling to develop a dispute resolution mechanism that appropriately balances patient autonomy against the rational allocation of resources and the integrity of the medical profession. But these four countries have developed strikingly divergent legal mechanisms for resolving medical futility disputes.

In both Canada and the United States, mediation has long been touted as the magic band-aid to solve end-of-life conflicts. But it has become increasingly obvious that mediation fails in the ever-growing number of intractable medical futility cases. It cannot succeed in the shadow of current health care decisions law that gives surrogates enormous bargaining power. So, providers and policymakers in the United States and Canada are now working to equalize bargaining power by giving providers a clearly-defined statutory safe harbor to unilaterally refuse surrogate decision makers' requests for inappropriate life-sustaining medical treatment. In contrast, medical futility laws in the United Kingdom and Australia already more meaningfully empower health care providers to refuse surrogate demands.

After demonstrating these differences using vivid examples of the latest legislative and judicial developments, I analyze their source in the cultural context of each country. Finally, I assess the impact of these disparities on future end-of-life conflict resolution in each country.