



1



2



3



4



5



6

VSED Eligibility in Dementia

“Dementia is Incompatible
with Who I Am”

1:15-2:15 - Lakes C

7



8

June 2019

Alzheimer's Dx

9

not want to live
with late-stage
dementia

10

SO ...

11

June 2023 VSED

12



13



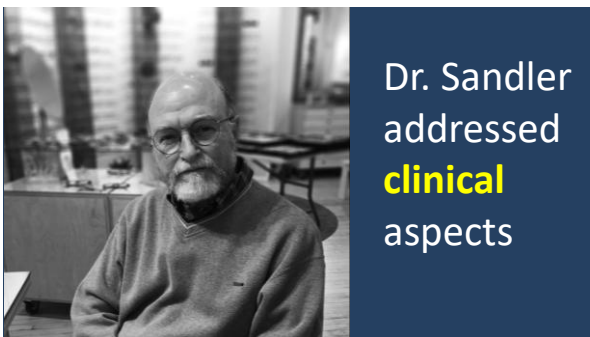
14



15



16



17



18

3 parts

19

VSED

20

VSED
by AD

21

VSED
by SDM

22

VSED is
legal

23

sizable, settled,
and stable
consensus

24

court
precedent

25

multiple
appellate
decisions

26

is VSED legal?
asked &
answered

27

plus

28

do **not need**
direct, explicit
authority

29

already legal
existing rules

30



Combined Minnesota and Federal Hospice Bill of Rights

MINNESOTA HOSPICE BILL OF RIGHTS PER MINNESOTA STATUTES,
SECTION 144A.751

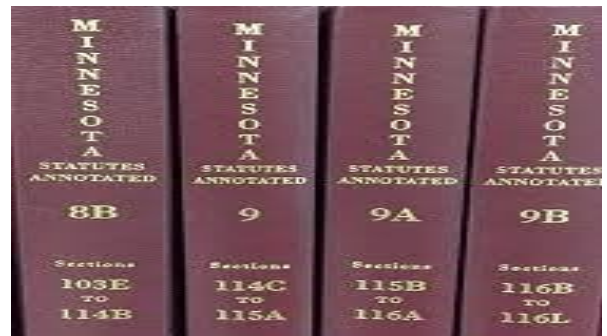
31

“patients ... have
... **right to refuse**
... treatment”

32

**In the Matter of the CONSERVATOR-
SHIP OF Rudolfo TORRES,
Conservatee.**
No. C1-84-761.
Supreme Court of Minnesota.
Nov. 2, 1984.

33



34

**right to
refuse
treatment**

35

ventilator
dialysis
CPR
antibiotics
feed tube

36

right to
refuse **VSED**
treatment

37

not DIY

38

part of a broader
treatment plan

39

supervised by
licensed healthcare
professionals

40

recognized as
healthcare by
professionals

41

more position
statements

42

POSITION STATEMENT



Nutrition and Hydration at the End of Life

Effective Date: 2017
 Status: Revised Position Statement
 Written by: ANA Center for Ethics and Human Rights
 Adopted by: ANA Board of Directors

43



American Medical Women's Association

44



45



AMERICAN ACADEMY OF
HOSPICE AND PALLIATIVE MEDICINE

46



47



48

more clinical practice guidelines

49

HANDREIKING

Zorg voor mensen die stoppen met eten en drinken om het levenseinde te bespoedigen

Januari 2024

Guide - Caring for People Who Stop Eating and Drinking to Hasten the End of Life

Jan. 2024

knmg, nkg, nhg, nlg, verengo, vgvn

50

JPSM JOURNAL OF PAIN and SYMPTOM MANAGEMENT

Advancing Palliative Care, Diagnosis, and Symptom Research

March 2023 • Volume 10 • Number 3

Clinical Guidelines for Voluntarily Stopping Eating and Drinking (VSED)

Nov. 2023

ISSN 2688-3390

© 2023 JPSM

1. The first part is a... 2. The second part is a... 3. The third part is a... 4. The fourth part is a... 5. The fifth part is a... 6. The sixth part is a... 7. The seventh part is a... 8. The eighth part is a... 9. The ninth part is a... 10. The tenth part is a...

51

JAMA Internal Medicine | Special Communication | HEALTH CARE POLICY AND LAW

Voluntarily Stopping Eating and Drinking Among Patients With Serious Advanced Illness—Clinical, Ethical, and Legal Aspects

Timothy E. Quill, MD; Linda Ganzini, MD, MPH; Robert D. Truog, MD; Thaddeus Mason Pope, JD, PhD

JAMA Internal Medicine January 2018 Volume 178, Number 1 123

52

Journal of the American Geriatrics Society

AGS Geriatrics Healthcare Professionals

Leading Change. Improving Care for Older Adults.

SPECIAL ARTICLE: PALLIATIVE PRACTICE POINTERS

Voluntary Stopping Eating and Drinking

John W. Wax, MD, Amy W. An, MD, Nicole Kosier, MD, and Timothy E. Quill, MD

53

right to refuse treatment

VSED

54

ONH = Tx

55

but

56

some
challenge
premise

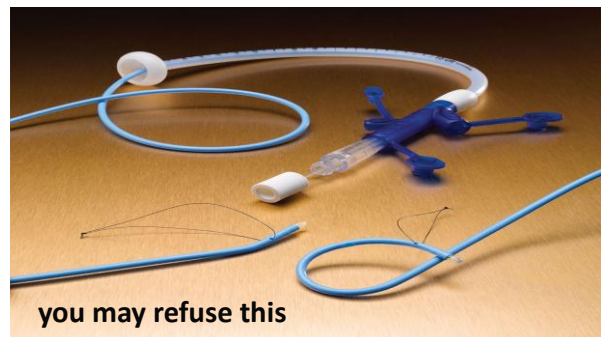
57

oral N&H \neq
“treatment”

58

basic care

59

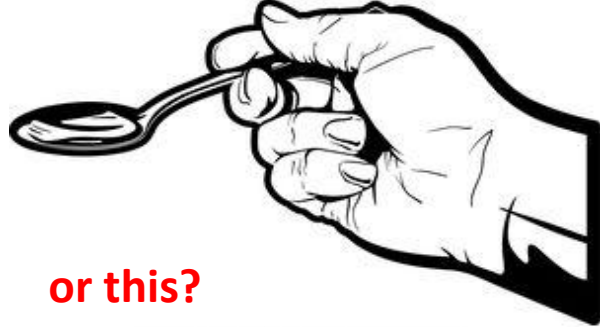


60

can you also refuse this?



61



or this?

62

yes

63

right to
refuse **any**
intervention

64

does **not** matter if food
& fluid by mouth is
medical treatment

65

right to refuse
any intervention

66

medical
or not

67

healthcare
or not

68

right to refuse
any
unwanted contact

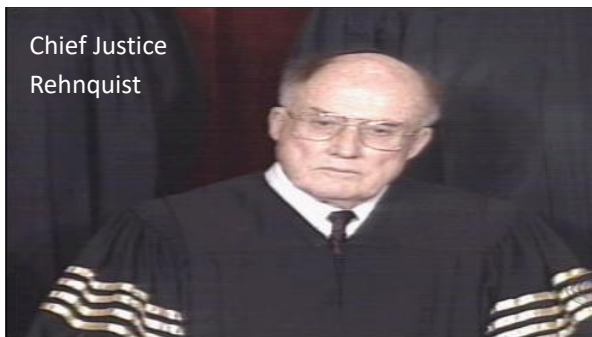
69

force feeding is a battery



70

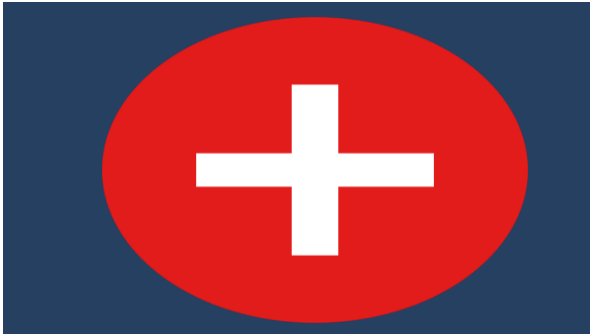
Chief Justice
Rehnquist



71

“bodily integrity is
violated ... by sticking
a **spoon in your**
mouth ... sticking
a needle in your arm”

72



73

Medicare Conditions of Participation for Hospice

74



75

“patient has a right
to refuse care **or**
treatment”

42 C.F.R. 418.52(c)(3)

76



VNSNY HOSPICE & PALLIATIVE CARE POLICY and PROCEDURE

TITLE: VSED: Responding to a Patient's Desire to
Voluntarily Stop Eating and Drinking

77

“ethical and
legal option”

78

because

79

“well-settled right
... to refuse **any**
unwanted
intervention”

80

recap

81

VSED is
legal

82

sizable, settled,
and stable
consensus

83

**assisted
suicide**

84



85

Minn. Stat.
609.215

86

“whoever . . .
assists another
in taking the
other’s life ...”

87



88



15 years

89

Medical
Practice Act

90

Minn. Stat.
147.091(1)(w)

91

“aiding suicide ...
grounds for
disciplinary action”

92



93

VSED = AS
AS = felony
➔ VSED = felony

94

WRONG

95



96

1

97

no assisting

98

only

PALLIATIVE
CARE



99

2

100

palliative care \neq assisted suicide

101



102

“provider ... administers,
prescribes ... to relieve ...
pain or discomfort ...
does not violate”

103

clinician does
not cause death

104

clinician does
not intend death

105

3

106



107

4

108

1000s of
VSED deaths

109

no healthcare
licensing board
discipline

110

no criminal
prosecutions

111

no medical
malpractice

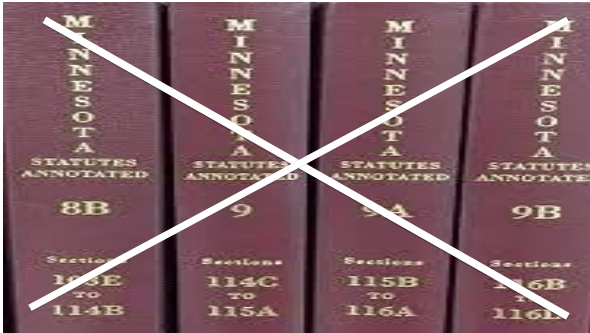
112

VSED **≠** AS

113

hospice

114



115



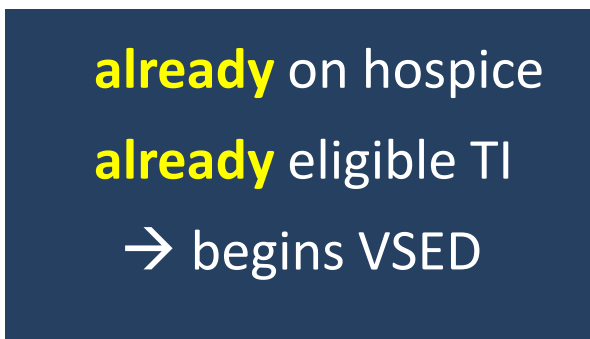
116



117



118



119



120

not on hospice
not already eligible TI
 → begin VSED

121

does VSED
make patient
 eligible?

122



123



124

“most hospices will not
 provide direct care to
 patients with a prognosis
 greater than six months
prior to ... initiation of VSED”

125

“However, **many**
 hospices **will enroll**
 patients who have
already begun VSED.”

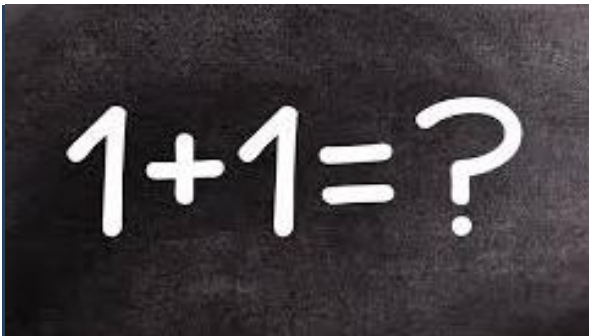
126



127

“As to Hospice eligibility,
there was unanimous
agreement that any patient
who embarks on VSED
becomes **one of ours**”

128



129

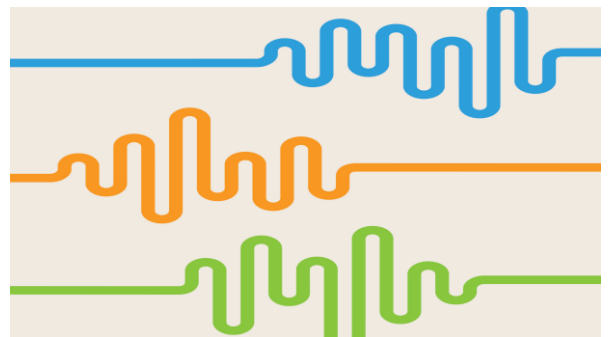
VSED → death
 < 14 days

14 days < 6 months

130



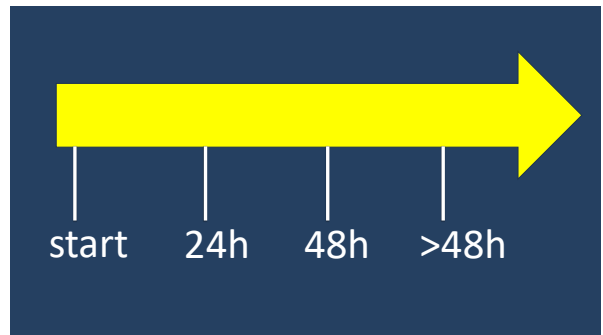
131



132

when does
VSED make
patient TI

133



134

not assessing
symptoms

135



136

if Pt will **probably**
continue VSED
then Pt **probably**
dead <6 months

137

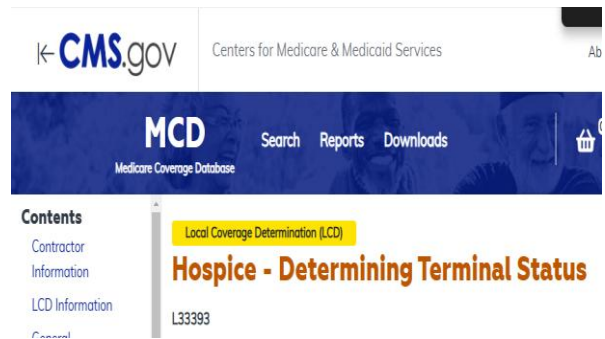
alternate basis
for certification

138

purely **clinical**
(e.g., weight loss)

→ later

139



140

inanition

+

underlying
medical condition

141



142

F50.89

other specified
eating disorder

143



144

VSED by patient
with capacity

145

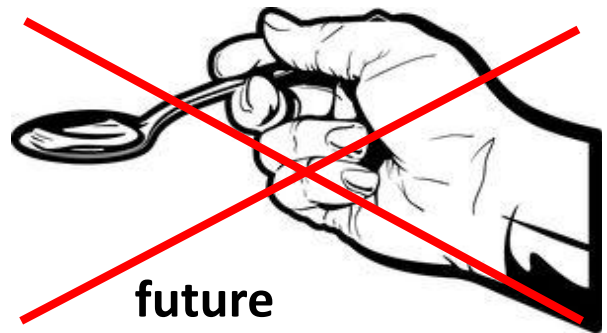
VSED by AD

146

**complete AD
today**



147



148

after patient
loses capacity

149

at **point**
Pt specifies

150



151



152

FUNCTIONAL ASSESSMENT STAGING TEST (FAST) SCALE					
Stage	Stage Name	Characteristic	Stage	Stage Name	Characteristic
1	Normal Ageing	No deficits whatsoever	6a	Moderately Severe Dementia	Needs help putting on clothes
	Possible Mild Cognitive Impairment		6b		Needs help bathing
2	Subjective functional deficit		6c		Needs help toileting
			6d		Urinary incontinence
3	Objective functional deficit interferes with a person's most complex tasks		6e		Faecal incontinence
			7a	Severe Dementia	Speaks 5-6 words during the day
4	Instrumental activities of daily living (ADLs) become affected, such as paying bills, cooking, cleaning, travelling		7b		Speaks only 1 word clearly
			7c		Can no longer walk
			7d		Can no longer sit up
			7e		Can no longer smile
5	Needs help selecting proper attire		7f		Can no longer hold up head

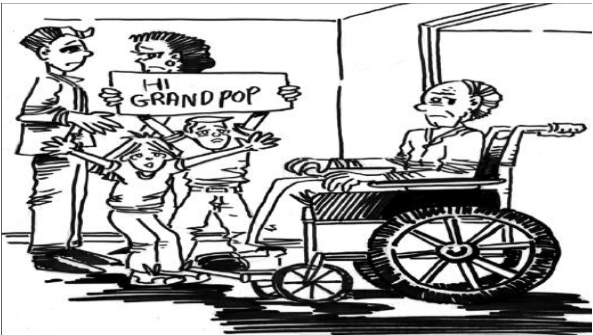
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154



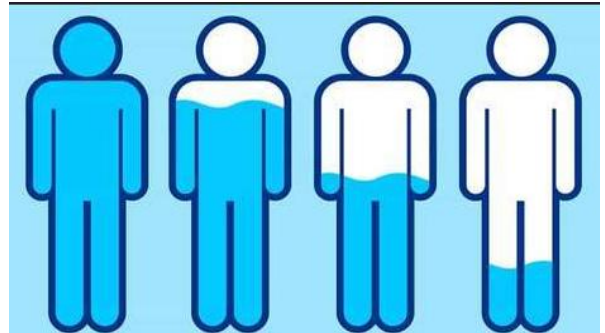
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156



157



158



159

A Piece of My Mind

My Living Will

588 JAMA, February 28, 1996—Vol 275, No. 8

I, William Arthur Hensel, being of sound mind, desire that my life not be prolonged by extraordinary means if my condition is determined to be terminal and incurable. I am aware and understand that this writing authorizes a physician to withhold or discontinue extraordinary means.

basic of comfort and nutritional care. Even a detailed living will that includes the refusal of all active treatments such as cardiopulmonary resuscitation, antibiotics, artificial nutrition, and hydration may be inadequate in such a situation. I do not want to become a vacant-looking body, reflexively swallowing food and water placed in my mouth, my soul frozen inside while my life

160



161

DARTMOUTH

EXPL

The Dartmouth Dementia Directive

An advance care document for dementia care planning

162



ABOUT THE ADVANCE DIRECTIVE FOR RECEIVING ORAL FOOD AND FLUIDS IN DEMENTIA

163



164

Dementia Provision Advance Directive Addendum



The following document can be added to any advance directive to provide guidance regarding consent to or refusal of certain therapies. Once completed, signed and witnessed, it should be kept with the advance directive.

165



166

Support and promote life quality



lifecircle | Living will & additional personal statement

167



Introduction to our Supplemental Advance Directive For Dementia

168

Final Exodus

Planning for End of Life

4. ☐ **ASSISTED FEEDING.** If I am unable to feed myself, then spoon feed me whatever I seem to enjoy, and no more. Do not feed me or apply medical interventions, such as tubes and IVs, so that I might live longer.


☐ If this sentence is initialed and any of the choices 5, 6, or 7 are initialed, the latter are **not** to be implemented if they put my agent or any of my caregivers at criminal risk.

5. ☐ **WITHHOLD NUTRITION & HYDRATION** if I show no desire to eat and/or drink. This includes medical interventions such as tubes and IVs. Do not encourage or entice me to eat or drink. Keep food odors out of my room.

169

The LEAD Guide

Life-Planning in Early Alzheimer's and Dementia



Prepared by
Kara Hovind, PhD | Katherine Engle, PhD, LICSW, FT | Rebecca Hix, PhD | Sarah Ryken, LICSW
HEALTH

170

My Way Cards®

for Natural Dying™

Sort them now to obtain your personal
NATURAL DYING—LIVING WILL
...to let others know **EXACTLY** what
you will want, if the time comes when
you are too sick to speak for yourself.

© 2009–2011 Susie A. Torres, PhD, MD

171

Power of Attorney for Adult with Dementia



Nev. Rev. Stat.
162A.870

172

NEVADA ADVANCE DIRECTIVE FOR ADULTS WITH DEMENTIA

PAGE 7 OF 10

PART 2. END-OF-LIFE DECISIONS ADDENDUM STATEMENT OF DESIRES.

4. I want to get food and water even if I do not want to take medicine or receive treatment. YES ☐ NO ☐

173



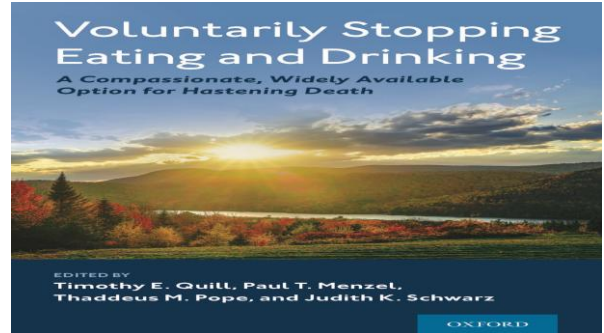
Making the Case for a Dementia Directive

November 14, 2022

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175



176



177



178



179



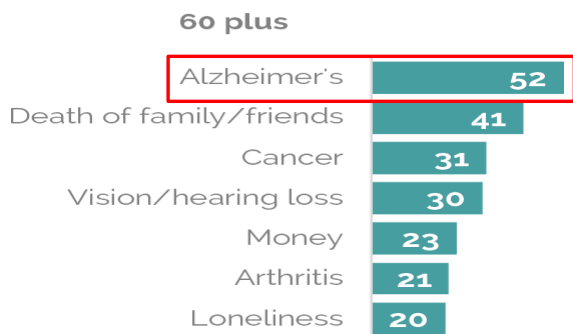
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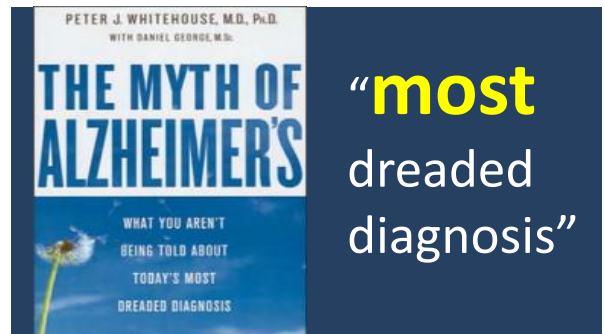
181

fear of dementia

182



183



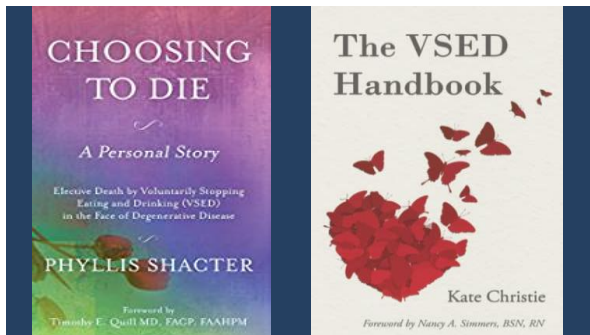
184

many **used VSED**
to avoid late-stage
dementia

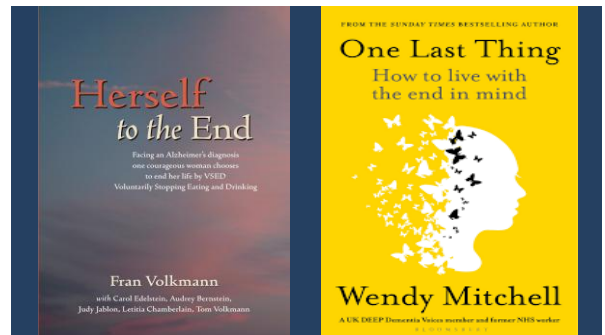
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186



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188



189



190



191



192



193

too **soon**

194

life **still**
worthwhile

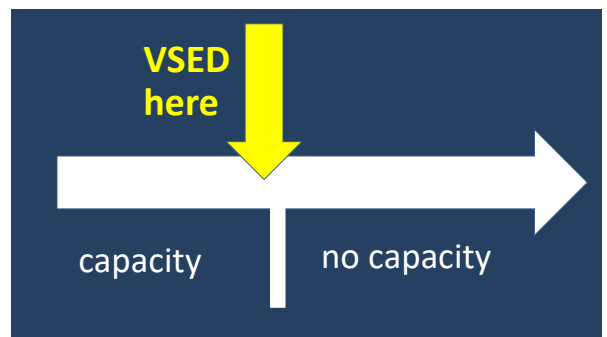
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earliness
problem

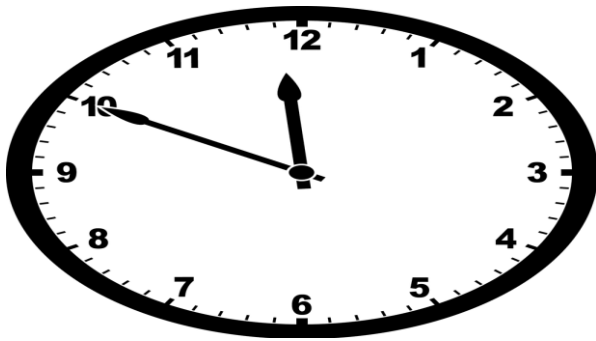
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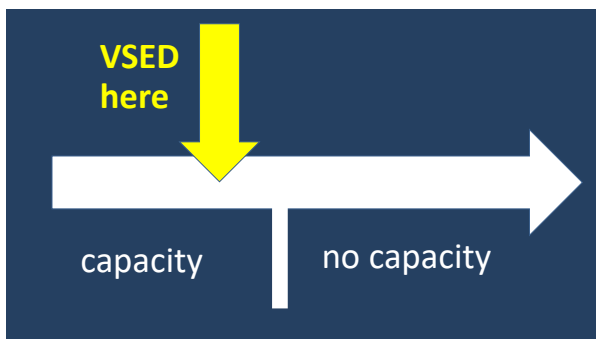
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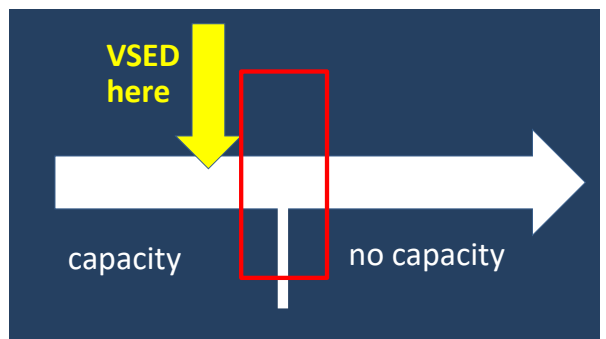
201



202



203



204

premature
dying

205

current situation
still acceptable

206

VSED **not**
good option

207

at **this** time

208

not ready
to die

209

concerned
about **future**
circumstances

210

lack capacity
at future time

211



212



213



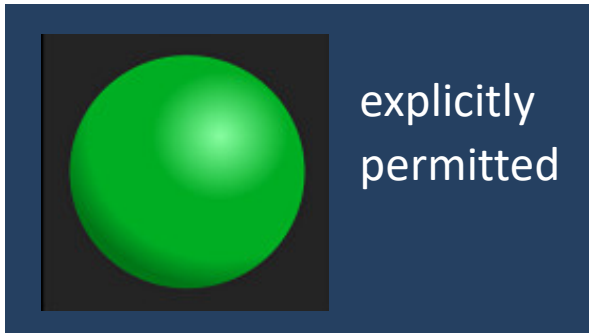
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legality of
VSED by AD

215



216



217



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NEVADA ADVANCE DIRECTIVE FOR ADULTS WITH DEMENTIA
PAGE 7 OF 10

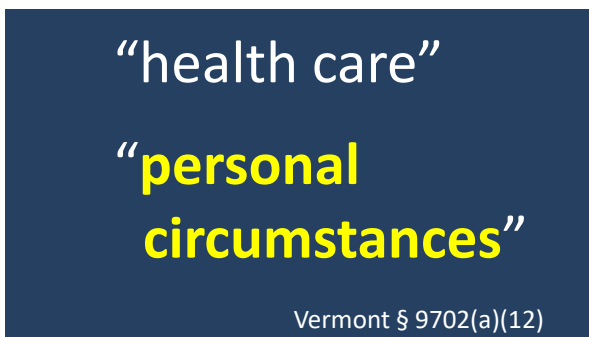
PART 2. END-OF-LIFE DECISIONS ADDENDUM STATEMENT OF DESIRES.

4. I want to get food and water even if I do not want to take medicine or receive treatment. YES ☐ NO ☐

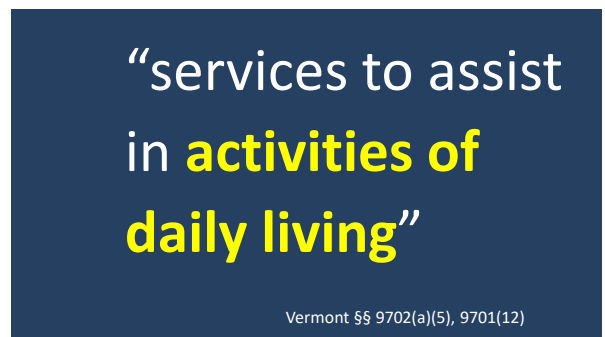
219



220



221



222



223

“circumstances
... **food & liquids**
... discontinued”

224



225

not explicit
& direct
like NV VT AZ

226

1	MINNESOTA STATUTES 2022	145C.01
CHAPTER 145C		
HEALTH CARE DIRECTIVES		
145C.01	DEFINITIONS.	145C.10
145C.02	HEALTH CARE DIRECTIVE.	145C.11
145C.03	REQUIREMENTS.	145C.12
145C.04	EXECUTED IN ANOTHER STATE.	145C.13
145C.05	SUGGESTED FORM; PROVISIONS THAT MAY BE INCLUDED.	145C.14
145C.06	WHEN EFFECTIVE.	145C.15
145C.07	AUTHORITY AND DUTIES OF HEALTH CARE AGENT.	145C.16
145C.08	AUTHORITY TO REVIEW MEDICAL RECORDS.	145C.17
145C.09	REVOCATION OF HEALTH CARE DIRECTIVE.	
		PRESUMPTIONS.
		IMMUNITIES.
		PROHIBITED PRACTICES.
		PENALTIES.
		CERTAIN PRACTICES NOT CONDONED.
		DUTY TO PROVIDE LIFE-SUSTAINING HEALTH CARE.
		SUGGESTED FORM.
		OPIOID INSTRUCTIONS ENTERED INTO HEALTH RECORD.

227

your AD can
address
health care

228

what's
"health care"

229

145C defines
"health care"
broadly

230

"**any** care ..."

231

"**any care**, treatment,
service, or procedure
to ... affect a person's
physical ... condition"

232

"health care"
includes food
& fluids

233

SO ...

234

MN ADs **may**
direct VSED

235

and ...

236

clinicians may
& should
follow them

237

**BIGGEST
PROBLEM**

238

conflict

239

prior **vs** now
self self

240

patient **has**
VSED AD

241

time to
follow AD

242

but

243

I'm thirsty



244

Now
what?

245

whose wishes
do we respect?

246

prior self
or
 current self

247

now patient
or
 then patient

248



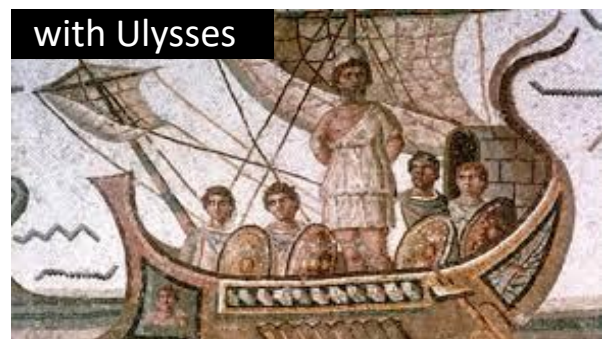
249

“ignore my
 future self”

250

“stick to VSED
 plan in my AD”

251



252

prior self
prevails

253



254



255

no need for a
Ulysses clause
in the AD

256

incapacitated
objections are
irrelevant

257

1

MINNESOTA STATUTES 2022

145C.01

CHAPTER 145C

HEALTH CARE DIRECTIVES

145C.01	DEFINITIONS.	145C.10	PRESUMPTIONS.
145C.02	HEALTH CARE DIRECTIVE.	145C.11	IMMUNITIES.
145C.03	REQUIREMENTS.	145C.12	PROHIBITED PRACTICES.
145C.04	EXECUTED IN ANOTHER STATE.	145C.13	PENALTIES.
145C.05	SUGGESTED FORM; PROVISIONS THAT MAY BE INCLUDED.	145C.14	CERTAIN PRACTICES NOT CONDONED.
145C.06	WHEN EFFECTIVE.	145C.15	DUTY TO PROVIDE LIFE-SUSTAINING HEALTH CARE.
145C.07	AUTHORITY AND DUTIES OF HEALTH CARE AGENT.	145C.16	SUGGESTED FORM.
145C.08	AUTHORITY TO REVIEW MEDICAL RECORDS.	145C.17	OPIOD INSTRUCTIONS ENTERED INTO HEALTH RECORD.
145C.09	REVOCATION OF HEALTH CARE DIRECTIVE.		

258

“**remain in effect**
until ... principal
... revokes”

259

“principal
with ... capacity
... may revoke”

260

patient with late-
stage dementia
lacks capacity

261

SO...

262

patient with late-
stage dementia
cannot revoke

263

SO...

264

AD **remains**
in force

265

clinicians may &
should **follow**
VSED directive

266

JGIM 24 (2023) 321



JGIM

journal homepage: www.jgim.com

ELSEVIER

Editorial

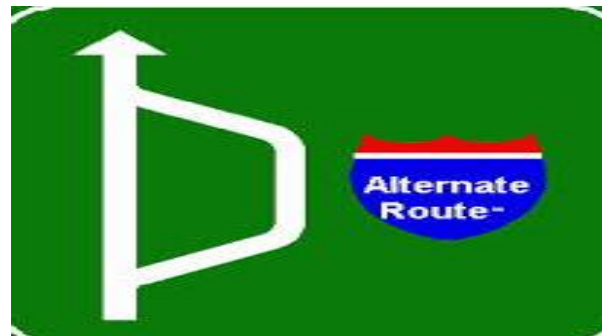
JGIM Updated Statement on Stopping Eating and Drinking by Advance Directives (SED by AD)

Board of Directors, Christopher E. Laxton CAE*

JGIM – The Society for Post-Acute and Long-Term Care Medicine, Columbia, MD, USA

Check for updates

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268



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Journal of Social Work in End-of-Life & Palliative Care

ISSN: (Print) (Online) journal homepage: www.tandfonline.com/journals/rowe20

**"They Make the Will, But They Want the Food:"
Staff Perspectives on Challenges in Implementing
Dementia Advance Directives Related to Stopping
Feeding**

Meredith Levine & Mercedes Bern-Klug

270

SO...

271

~~VSED~~

272

CFO
MCF

273

swtbpn
ANNUAL FORUM

274

VSED
by SDM

275

most Pts
lack ADs
including VSED ADs

276

not patient
asking VSED

277

substitute
decision
maker

278

agent
or
surrogate

279

agent

280

appointed
by Pt in AD

281

Legal

Permitted by law by
lawful, allowed, recogni
or not in violation of law
in conformity with statu
principles,

282

“make **any**
health care
decision”

283

limit

284

“act in
good faith”

285



286

surrogate

287

NOK
designated
by default

288

almost **same**
analysis

289

03/10/25

REVISOR

SGS/LJ

25-03817

This Document can be made available
in alternative formats upon request

State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FOURTH SESSION

H. F. No. 2753

03/24/2025

Authored by Nadem

The bill was read for the first time and referred to the Committee on Health Finance and Policy

03/10/25

REVISOR

SGS/LJ

25-03817

as introduced

SENATE

STATE OF MINNESOTA

NINETY-FOURTH SESSION

S.F. No. 2567

(SENATE AUTHORS: MANN)

DATE

D-PG

03/13/2025

774

Introduction and first reading
Referred to Judiciary and Public Safety

OFFICIAL STATUS

290

CASE TYPE INDICATOR: CIVIL - OTHER
DISTRICT COURT
STATE OF MINNESOTA
COUNTY OF RAMSEY
SECOND JUDICIAL DISTRICT
PROBATE DIVISION
FILE NUMBER: C7-94-1717
RE: James D. Butcher and Patricia A.
Butcher, individually and as
parents and natural guardians
of James D. Butcher, II,
Plaintiffs,
vs.
Thomas Fashingbauer, in his
official capacity as Director,
Ramsey County Community Human
Services Department, and Ramsey
County Community Human
Services Department,
Defendants.
FINDINGS OF FACT, CONCLUSIONS
OF LAW AND JUDGMENT

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but

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less deference
because not
chosen by Pt

293



294

conclusion

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3

paths
to VSED
in MN

296

VSED by Pt w/ capacity

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VSED by AD

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VSED by SDM

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Thaddeus Mason Pope, JD, PhD, HEC-C
 Mitchell Hamline School of Law
 875 Summit Avenue
 Saint Paul, Minnesota 55105
T 651-695-7661
C 310-270-3618
E Thaddeus.Pope@mitchellhamline.edu
W www.thaddeuspope.com
B medicalfutility.blogspot.com

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