

Navigating Newly Expanded End-of-Life Options: Medical Aid in Dying & VSED

1



@ThaddeusPope

Ohio-Health Ethics Education Week • November 9, 2022

2

nothing to disclose

3

except

4

MAID

5

op-eds

6



The Opinion Pages
ROOM for DEBATE

Oregon Shows That Assisted Suicide Can Work Sensibly and Fairly



Thaddeus Mason Pope is the director of the Health Law Institute at Hamline University, and a frequent legal commentator and blogger on end-of-life medical issues.

UPDATED: OCTOBER 7, 2024, 12:58 PM

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VIEWPOINT

The Changing Legal Climate for Physician Aid in Dying

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School of Medicine, University of California Davis School of Medicine, Sacramento

While once widely rejected as a health care option, physician aid in dying is receiving increased recognition as a response to the suffering of patients at the end of life. With aid in dying, a physician writes a prescription for life-ending medication for an eligible patient. Following the recommendation of the American Public Health Association, the term aid in dying rather than "assisted suicide" is used to describe the practice.¹ In this Viewpoint, we describe the changing legal climate for physician aid in dying occurring in several states (Table).

Writes in Oregon and Washington how legal aid in dying by public referendum, legislation in Vermont and done so by statutory enactment, and courts in Montana and New Mexico have done so by judicial rulings. Support for aid in dying is increasing, and it would not be surprising to see voters, legislators, or courts in

an advance directive statute in California,² court decisions concluded that patients may reject a physician's treatment recommendations even when death is necessary to prolong life.

Recognition of the right to refuse life-sustaining treatment when they are suffering from irreversible and severe illness, to such a degree that burdens of continued treatment may outweigh benefits, and people should not be forced to prolong and undignified dying process.³ With

How is it possible to decide when some cases are serious enough that treatment can be discontinued? The Quinlan case concluded that the right to refuse sustaining treatment should exist when the

8

CPG

9



10



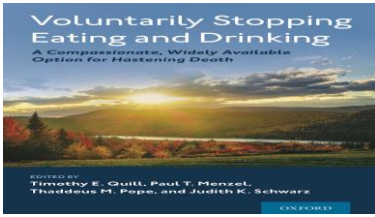
11



12



13



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17



18

control timing &
manner of death

19



20



21

physical
suffering

22

pain
nausea
dyspnea
paralysis

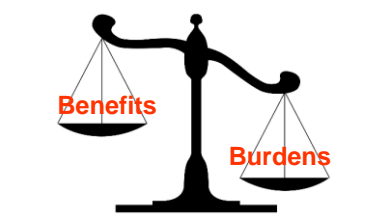
23

existential
suffering

24

psychic pain
loss of control
anxiety
delirium
hopelessness

25



26

how?

27

6 last resort options

28



29

1. Stop life-sustaining therapy
2. High dose opioids
3. Palliative sedation to unconsciousness
4. Voluntarily stop eating & drinking
5. Medical aid in dying
6. Euthanasia

30

1. Stop life-sustaining therapy
2. High dose opioids
3. Palliative sedation to unconsciousness
4. Voluntarily stop eating & drinking
5. Medical aid in dying
6. Euthanasia

31



32



33



34

1. Stop life-sustaining therapy
2. High dose opioids
3. Palliative sedation to unconsciousness
4. Voluntarily stop eating & drinking
5. Medical aid in dying
6. Euthanasia

35



36



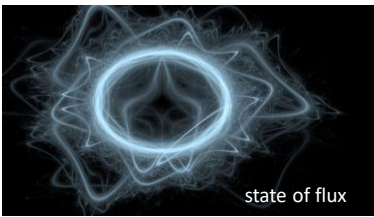
37

Will **not** discuss
accepted
not accepted

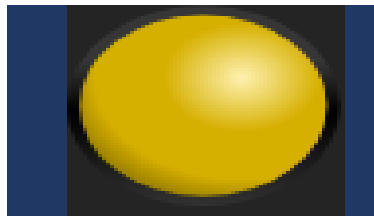
38

1. Stop life-sustaining therapy
2. High dose opioids
3. Palliative sedation to unconsciousness
4. Voluntarily stop eating & drinking
5. Medical aid in dying
6. Euthanasia

39



40



41

Roadmap

42

5 parts

43

MAID

44

MAID
for **Ohio** patients

45

MAID

current debates

46

VSED

47

VSED

by AD

48

MAID

49

what is
MAID?

50

end-of-life
option

51

for **small**
number of
patients

52

who

53

adults

> 18 years old

54

decisional
capacity

55

terminally ill
< 6-mo prognosis

56

what

57

ask & receive
prescription
drug

58

self-administer
to hasten death

59



60

D-DMAPh



61

3

62



63



64



65

others may help
prepare meds

66

may not help
administer meds

67

patient alone
takes final overt act

68



69

As Introduced
132nd General Assembly
Regular Session
2017-2018
Senator Tavares
Cosponsors: Senators Yuko, Schiavoni
S. B. No. 249

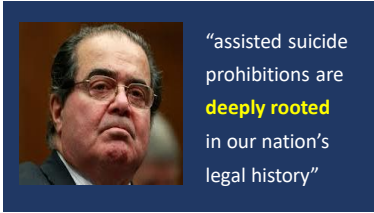
70

**Why need
a statute**

71

across USA, since 1800s,
help someone commit
suicide is a **crime**

72



73



74

(131st General Assembly)
(Substitute House Bill Number 470)

effective March 21, 2017

AN ACT

75



76



77

§ 3795.04

78

“**no person** shall knowingly cause another person to commit ... suicide by”

79

“providing the **physical means** by which the ... person commits ... suicide”

80



81

“whoever violates ...
is guilty of ... **felony**
of the third degree”

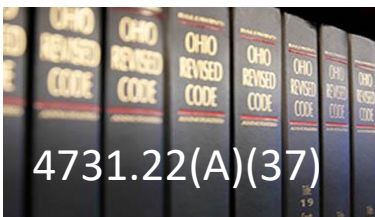
82



83

plus

84



85

“limit, revoke,
or suspend a
license”

86

SO...

87

no MAID
in Ohio

88

MAID = AS

89

AS = felony

90

MAID = AS
AS = felony

MAID = felony

91



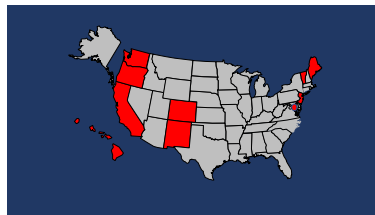
92

contrast

93

10 MAID
states

94



95

MAID is
legislatively
authorized

96

MAID \neq AS

97



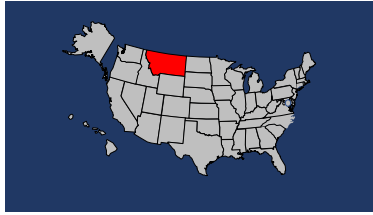
98

CA HI NM
CO ME OR
DC NJ VT
WA

99

plus

100



101

no MAID statute

102

but

103

considered legal

104



105

“consent of the victim. . . is a defense”
Mont. Code Ann. 40-2-211

106

patient consent
↓
not prohibited

107



108



109



110



111



112



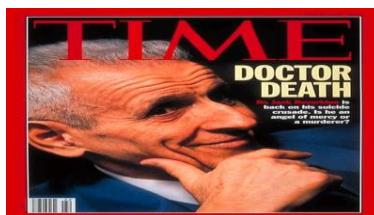
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114



115



116



117



118



119



120



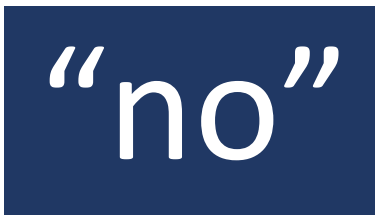
121



122



123



124



125



126

focus on rights
at **state** level

127



128

“entrusted to ...
laboratory of
the **states**”

129

MAID | **abortion**

130

In the
Supreme Court of the United States

**THOMAS E. DOBBS, STATE HEALTH OFFICER OF THE
MISSISSIPPI DEPARTMENT OF HEALTH, ET AL.,**
Petitioners,
v.
JACKSON WOMEN'S HEALTH ORGANIZATION, ET AL.,
Respondents.

131



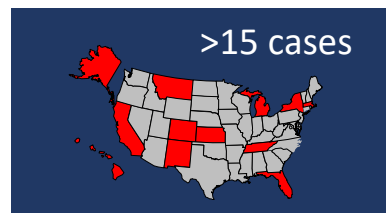
132

path 2
litigation
state constitutions

133

state constitutions
broader stronger
individual rights

134



135

all 15
failed

136

active
case

137



138



Roger
Kligler

139



140

MA
#12 ?

141

recap

142

no right under
US constitution

143

no right under
state constitutions

144

Path 3
state statutes

145

early efforts

- 1988 California
- 1991 Washington
- 1992 California
- 1994 Michigan

146



147

problem

148

legalize **both**
euthanasia
and MAID

149

different



150

MAID

151

self ingestion
patient takes the
final overt act

152

euthanasia

153

clinician makes
the final overt act

154

46/54

155

all U.S. bills
focus on
MAID **only**

156

limited to patient
administered
(**self** ingestion)

157

1994
(1997)

158



159

numerous
safeguards

160

multiple requests
multiple screenings

161

prescribing MD
consulting MD
mental health MD

162



163

voluntary
informed
enduring

164



165



166

2008

167



168

2009

169



170

2013

171



172



173



174



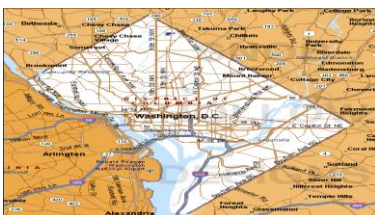
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176



177



178



179



180

2019

181



182



183

2021

184



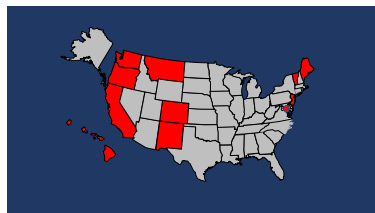
185

as of November 9
2022

186

11 states

187



188

“1 in 5
Americans”

189

78^m / 338^m

190

91 years
combined experience

191

OR	25	CO	6
WA	14	DC	6
MT	13	HI	4
VT	9	ME	3
CA	7	NJ	3
		NM	1

192



193

enough on
legalization

194

Usage

195

91 years

196

how
many

197



198

>> Oregon Death with Dignity Act

2021 Data Summary

199

1997 - 2022

200

2159
MAID deaths

201

900,000
total deaths

202

0.2%

203

per year

204

383 Rx
238 die

205



206

OR 4m
OH 12m

207

x3

208



209

1150 Rx
715 die

210

125,000
Ohio

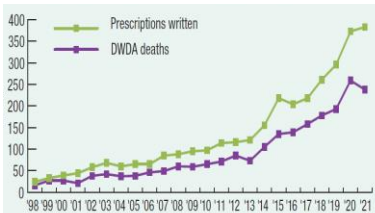
211

cumulative
25 years OR

212

3280 Rx
2159 deaths

213



214

3 different
populations
benefit

215

use
have
know

216

who?

217

76%
cancer

218

90%
hospice

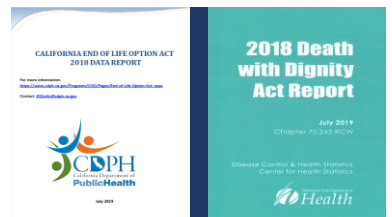
219

95%
insured

220



221



222

MAID
for Ohio patients

223



224



225

As Introduced

132nd General Assembly

Regular Session

2017-2018

Senator Tavares

Cosponsors: Senators Yuko, Schiavoni

S. B. No. 249

226



227



228



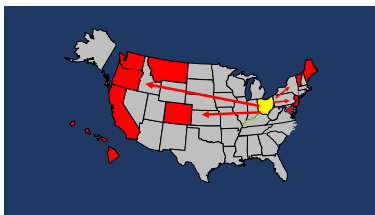
229



230



231



232

you might think

“no”

233

residency

requirement

234

“resident
of ____”

235

but

236

2 ways
around

237

1

238

~~“resident
of ____”~~

239



240



241



242

WA patients
want MAID
in OR

243

but

244

law permits
MAID for **only**
Oregon patients

245

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

NICHOLAS GIDEONSE, M.D.,
Plaintiff, Case No. 3:21-cv-1568

v.
KATE BROWN, in her official capacity as
Governor of Oregon, ET AL. DEFENDANTS

COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF

246

Oregon **may not**
limit MAID to
Oregonians

247



248

“citizens of each state
shall be entitled to **all**
privileges ... of citizens
in [other] states”

249

won

250

~~“resident
of _____”~~

251

any terminally ill
patient with capacity
can get Oregon MAID

252



253



254



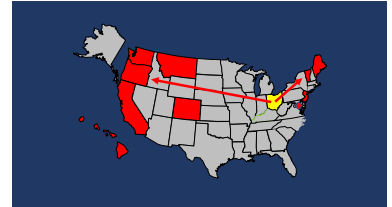
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256



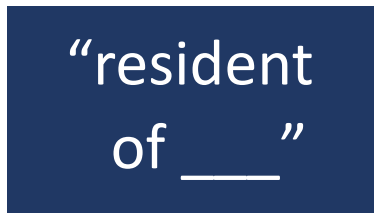
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258



259



260



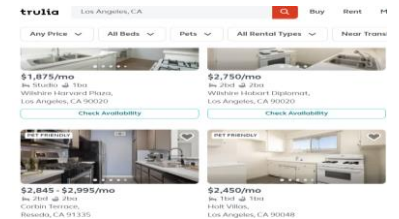
261

confirmed
by attending
physician

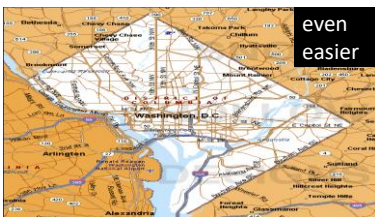
262

driver license
voter registration
tax return
own or **lease property**

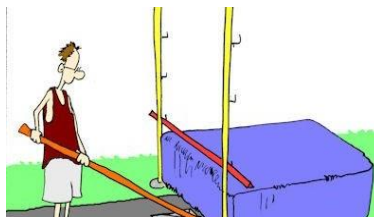
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264



265



266



267

no legal barrier
practical barrier

268



269



270

informed
consent

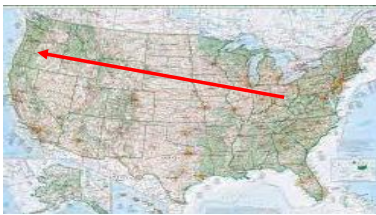
271

disclose
“a reasonable person”
would “likely attach
significance”

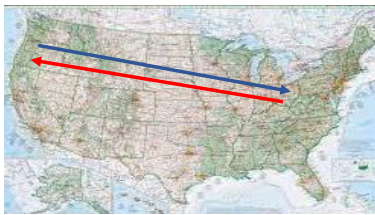
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273



274



275



276

“participating in a
physical act by
which ... person
commits ... suicide”

277



278

“**physical act** by
which ... person
commits ... suicide”

279



280

“**physical act** by which ... person commits ... suicide”

281

that’s
residency
requirement

282

other
changes

283



284

successful
no evidence
of abuse

285



286

access

287

can patients
get it?

288



289



290

too permissive
too restrictive

291

too permissive

292

2

293

capacity
at prescription

294

capacity
at ingestion

295



296

“impaired
judgment . . .
mental disorder”

297

ineligible
for MAID

298

but

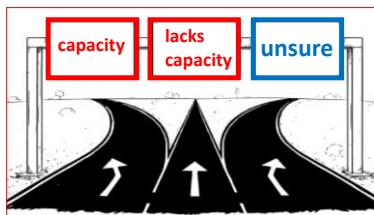
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300

mental health
specialist **only if**
attending or
consulting **refers**

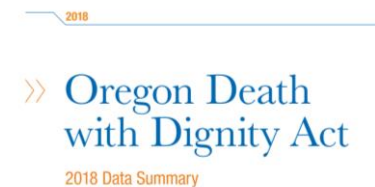
301



302

rare

303



304

4.5%
(and dropping)

305



306

many think
that rate is
too low

307

are we **failing** to
screen out
impaired judgment?

308

no proof
but ...
needs study

309

response

310

every
patient

311

always
gets 3rd screening

312

not
contingent

on doubts, concerns capacity

313



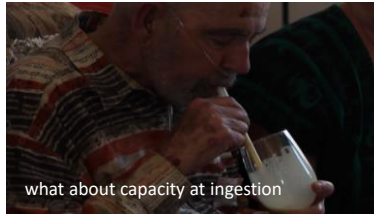
314



315



316



317



318

no capacity
assessment
at ingestion

319



320

2 ways MAID
laws are too
permissive

321

too restrictive

322

unduly restrict
access

323

1 too restrictive

324

15 day
wait period
between requests

325



326

assure
request
enduring

327

but

328

undue
burden
cannot wait that long

329

during the process
lose capacity 35%
die 19%
By Chris Sellen, Executive Mkt. Director of CyberPoint, 2012-45106-111.

330

Response

331



332



333



334

48h

335

0 hours

336

“death is likely to occur **before** ... expiry of the time period”

337

2 too restrictive

338

eligibility confirmed
2 clinicians

339

both physicians
MD or DO

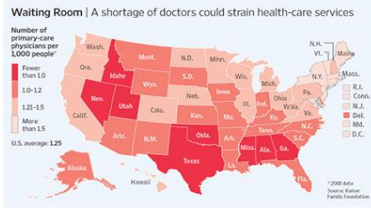
340

but

341

access
problems

342



343

response

344

extend to
APRN

345



346

HI VA DE
WA IN

347

3 too restrictive

348

terminal
illness

349

death within
6 months

350

matches
hospice

351

but

352

temporally
strict

353

10
Australia
Austria
Belgium
Canada
Colombia
Luxembourg
Netherlands
New Zealand
Spain
Switzerland

354

irreversible
incurable

355

unbearable
suffering

356

recap

357

3 moves
to improve
access

358

expand qualified clinicians
shorten waiting period
expand terminal illness

359



360



361

but

362

4 reasons

363

1

364

most live in **non**-MAID jurisdictions

365



366

2

367

many in MAID jurisdictions are **ineligible**

368

6-month prognosis

369



370



371



372



373



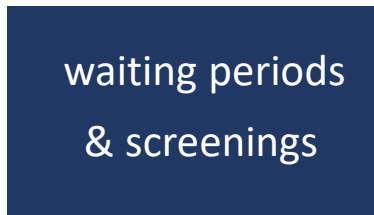
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375



376



377



378

no MAID
via **AD**

379



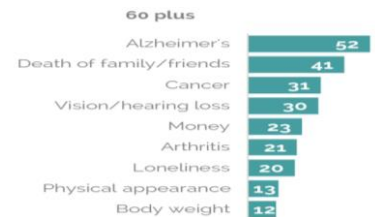
380



381

fear of
dementia

382



383

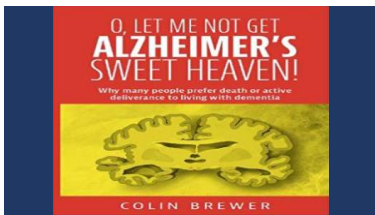
PETER J. WHITEHOUSE, M.D., Ph.D.
WITH DANIEL GEORGE, M.B.

THE MYTH OF ALZHEIMER'S

WHAT YOU AREN'T
BEING TOLD ABOUT
TODAY'S MOST
DREADED DIAGNOSIS

**"most
dreaded
diagnosis"**

384



385

20% Alz biomarker
want MAID at
cognitive decline

Largent EA, et al. Attitudes Toward Physician-Assisted Death: From Individuals Who Learn They Have an Alzheimer Disease Biomarker. JAMA Neurol. 2019;76(7):864-868.

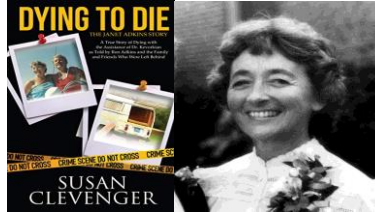
386

many **hasten death**
to avoid late-stage
dementia

387

1990

388



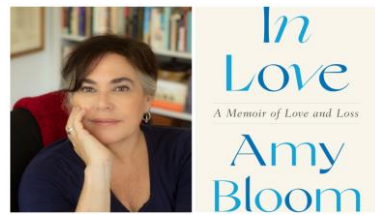
389

2022

390



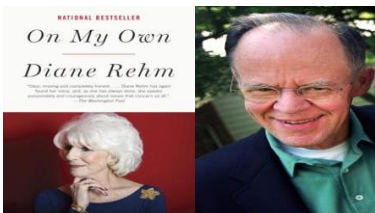
391



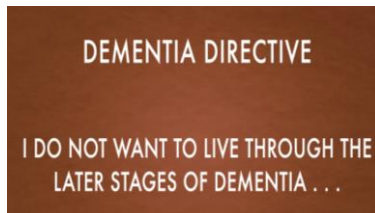
392

high profile cases

393



394



395

in sum

396



397

to **avoid**
late-stage dementia

398

~~MAID~~

399

SO...

400

other
EOL options

401

VSED

402

VSED

403

Voluntarily
Stopping
Eating &
Drinking

404

patient **with**
capacity

405

able to take food
& fluid by mouth

406

voluntary
decision
to stop

407

≠ ANH

408

≠ natural loss
appetite

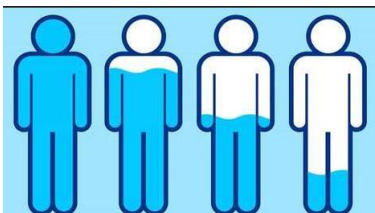
409

deliberate choice
stop fluids
by **mouth**

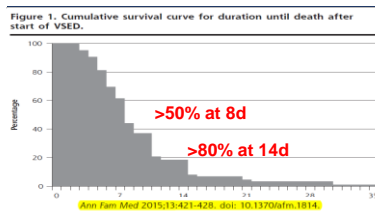
410

goal = death
from dehydration

411



412



413

peaceful
comfortable

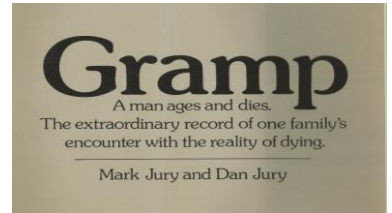
414

1st person narratives

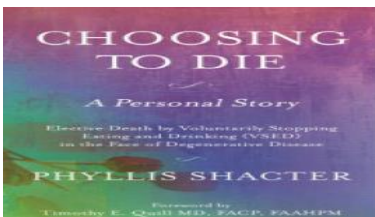
415

books

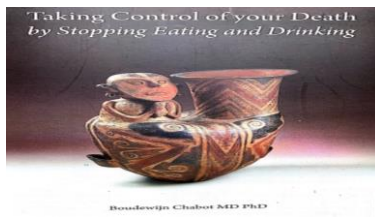
416



417



418



419



420

films

421



422



423



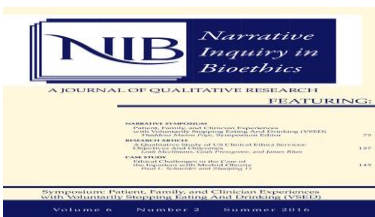
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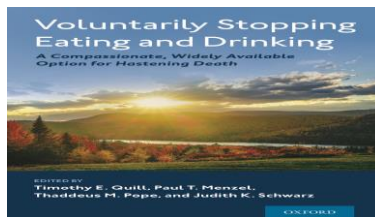
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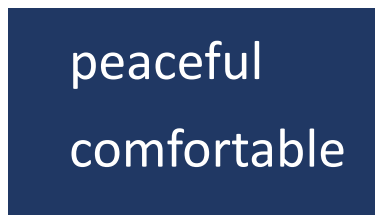
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429



430



431



432

100 Oregon
nurses cared for
VSED patients

433

most deaths
“**peaceful** with
little suffering”

434



435

“**opportunity** for
reflection, family
interaction, and
mourning”

436

preferred
by many

437



438

even though MAID
available, “**almost**
twice” chose VSED

439

patients VSED
even where
MAID is legal

440



441

0.4 to **2.1%**
of **all** deaths

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442

The NEW ENGLAND JOURNAL of MEDICINE

End-of-Life Decisions in the Netherlands over 25 Years

> 1/2 deaths
euthanasia

443



Newsletter
Fall 2022

444

773 New Clients
(31% increase from 2021)

949 Clients Served
(25% increase from 2021)

746 Death with Dignity (DwD) Clients

27 Voluntarily Stop Eating and Drinking (VSED) Clients

293 Clients Used DwD Law
(27% increase from 2021)

16 Clients Used VSED
(33% increase from 2021)

445

good
option

446

more clinical
experience



447

more position
statements



448

professional
society
endorsements

449

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

450



AMWA The Vision and Voice of
Women in Medicine
since 1915

American Medical Women's Association

451



amda THE SOCIETY
FOR POST-ACUTE AND
LONG-TERM
CARE MEDICINE

452

Austrian Palliative Society (OPG) themenschwerpunkt

Wien Med Wochenschr
https://doi.org/10.1007/s12064-018-0029-z




Freiwilliger Verzicht auf Nahrung und Flüssigkeit um das Sterben zu beschleunigen

Eine Stellungnahme der Österreichischen Palliativgesellschaft (OPG)

Angelika Faltshuber · Dittmar Weiler · Alois Birkbauer

Eingegangen: 6. September 2017 / Angenommen: 5. Februar 2018
© Springer-Verlag GmbH Austria, ein Teil von Springer Nature 2018

453

JOURNAL OF PALLIATIVE MEDICINE
Volume 20, Number 1, 2017
May/June 2017, Inc.
DOI: 10.1097/jpm.0000000000000290

Position Statement

International Association for Hospice
and Palliative Care Position Statement:
Euthanasia and Physician-Assisted Suicide

454

Contents lists available at ScienceDirect



Clinical Nutrition

journal homepage: <http://www.elsevier.com/locate/clinu>



e-SPEN guideline
ESPEN guideline on ethical aspects of artificial nutrition and hydration
Christiane Druml^{1,2}, Peter E. Ballmer³, Wilfried Druml¹, Frank Oehmichen⁴

455

Position Paper



Ethical Aspects of Artificially Administered Nutrition and Hydration: An ASPEN Position Paper

Denise Baird Schwartz, MS, RD¹; Albert Barnes, MD²


Nutrition in Clinical Practice
Volume 9, Number 1
January 2017 | 1-14
© 2017 American Society for
Parenteral and Enteral Nutrition
DOI: 10.1016/j.nucp.2016.11.003
www.aspen.org

WILEY


456



457



Caring for people who
consciously choose not
to eat and drink so as to
hasten the end of life



ESPEN guideline on ethical aspects of artificial nutrition and hydration

458

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 Garzanti, MD, MPH, Robert D. Truong, MD, Theodossios Mason Pope, JD, PhD

JAMA Internal Medicine January 2018 Volume 178, Number 1 123

459

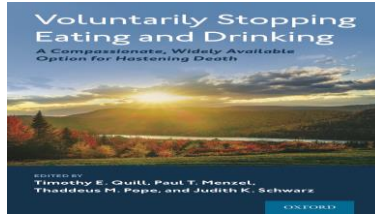


SPECIAL ARTICLE:
PALLIATIVE PRACTICE POINTERS

Voluntary Stopping Eating and Drinking

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

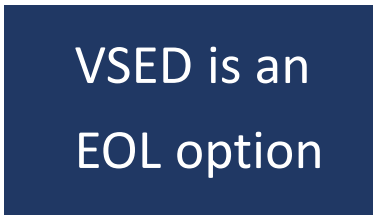
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462



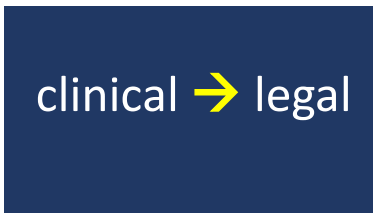
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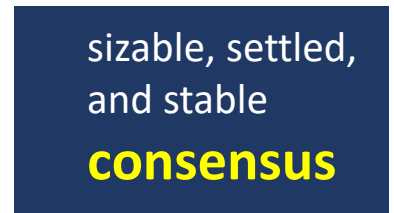
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466



467



468

5 points

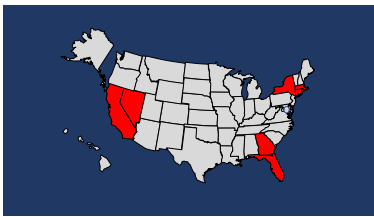
469

court precedent

470

multiple appellate decisions

471



472

is VSED legal?
asked &
answered

473

plus

474

no need for direct, explicit authority

475

already legal existing rules

476

right to refuse medical treatment

477

right to
refuse
treatment

478

ventilator
dialysis
CPR
antibiotics
feed tube

479

right to
refuse
treatment **VSED**

480

not DIY

481

part of a broader
treatment plan

482

supervised by
licensed healthcare
professionals

483

recognized as
healthcare by
medical profession

484

more position
statements

485

more clinical
practice
guidelines

486

but

487

right to
refuse **VSED**
treatment

488

relies on
premise

489

oral N&H =
“treatment”

490

oral N&H \neq
“treatment”

491

basic care

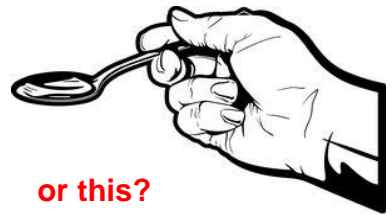
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493



494



495

yes

496

right to
refuse **any**
intervention

497

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

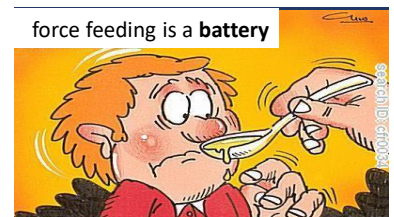
498

right to refuse
any intervention
(medical **or not**)

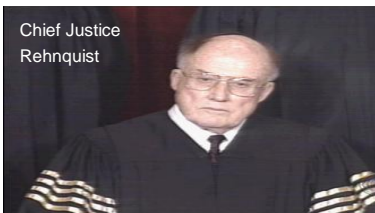
499

right to refuse
any
unwanted contact

500



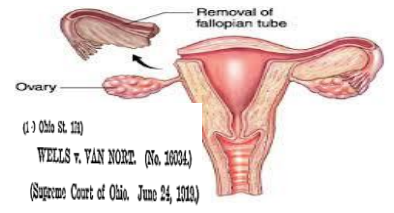
501



502

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

503



504

plus

505

medical
profession
accepts VSED

506

law **delegates & defers** to healthcare professionals

507

when medical profession says it is appropriate → law often **follows**

508

no
sanctions

509

Appendix E
Personal Narratives

In this book, we presented nine original, never-before-published cases of VSED in Chapter 1 and one more in Chapter 2. We include these in Chapter 7. But we are not alone. Many individuals have written about their or their family member's experience with either VSED or SED. This appendix includes citations and links to these personal narratives. These are organized as follows: (1) books, (2) articles, (3) video and audio recordings, and (4) other resources.

510

used &
reported

511

no liability
no HC licensing board discipline

512



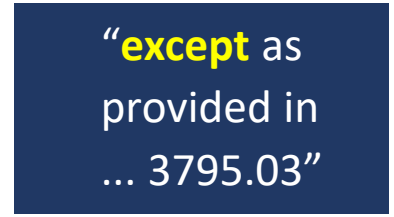
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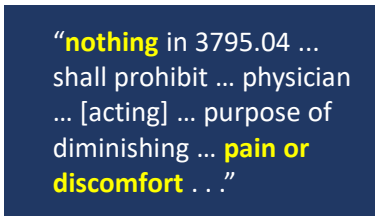
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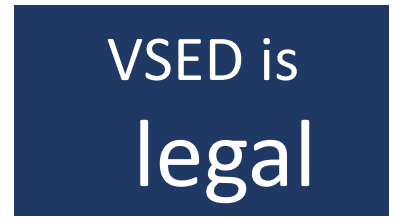
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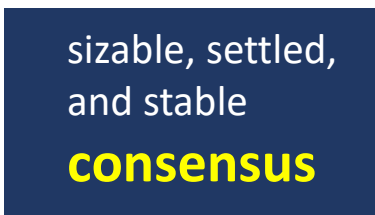
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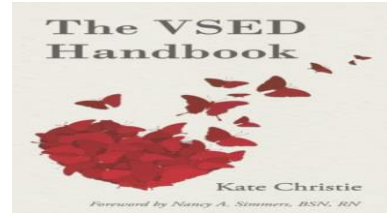
522

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

523



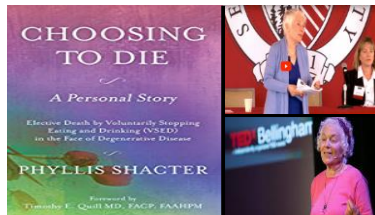
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525



526



527

but

528



529

VSED while
still have
capacity

530



531

too soon

532

life still
worthwhile

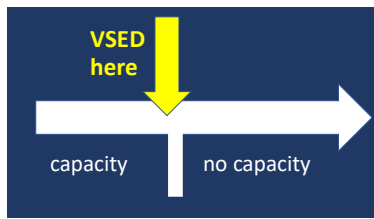
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earliness
problem

534



535



536



537

but

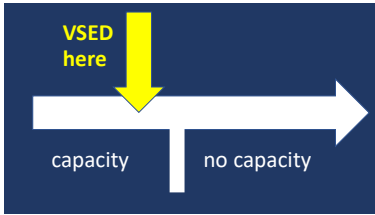
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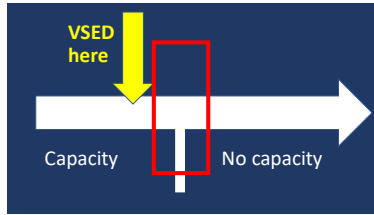
539



540



541



542

premature
dying

543

current situation
still acceptable

544

VSED **not** a
good option

545

at **that** time

546

not ready
to die yet

547

concerned
about **future**
circumstances

548

lack capacity
at future time

549



550



551



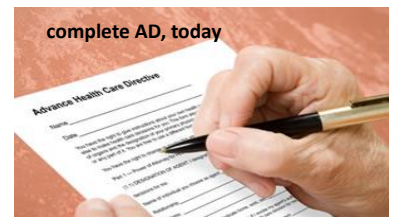
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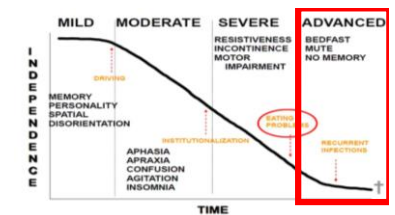
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556



557



558



559

at **point**
Pt specifies

560



561



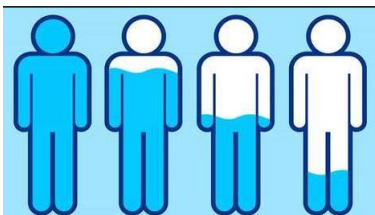
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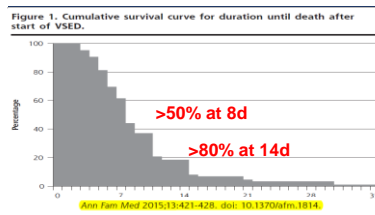
563

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

564



565



566

that's a
VSED AD

567



568

A Piece of My Mind

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

My Living Will

I, William Arthur Bristol, 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, nor want to live while my life

569



570



571

DARTMOUTH

The Dartmouth Dementia Directive

An advance care document for dementia care planning

572

End of Life Choices NEW YORK

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

573

end of life WASHINGTON

Your life. Your death. Your choice.

574

Dementia Provision Advance Directive Addendum

compassion & choices Care and Choice at the End of Life

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.

575

exit VEREINIGUNG FÜR HUMANES STERBEN DEUTSCHE SCHWEIZ

576

Support and promote life quality



Introduction to our Supplemental Advance Directive For Dementia

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

lifecircle | Living will & additional personal statement

577

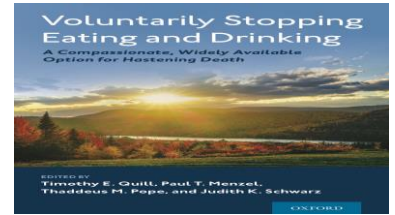
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NEVADA ADVANCE DIRECTIVE FOR ADULTS WITH DEMENTIA PAGE 7 OF 10

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

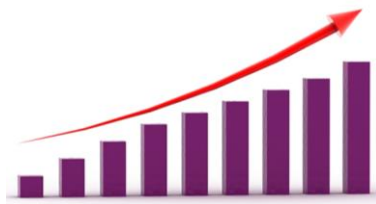
4. I want to get food and water even if I do not want to take medicine or receive treatment. YES NO



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581

582



583



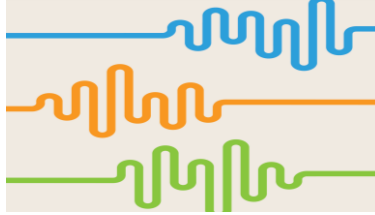
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585

Legal

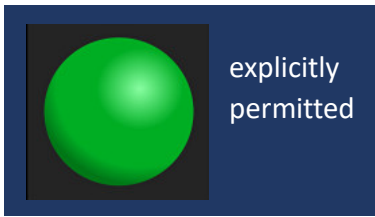
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587



588



589



590

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

591



592

“health care”
“personal circumstances”
Vermont § 9702(a)(12)

593

“services to assist in activities of daily living”
Vermont §§ 9702(a)(5), 9701(12)

594



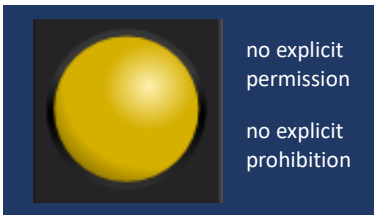
595



596

ADs only for **HC**
ONH **≠** HC
ADs **not** for ONH

597



598



599

1991 Modified
Uniform Rights
of the Terminally
Ill Act

600



601

“adult ... **may execute** ...
declaration governing ...
withholding or
withdrawal, of life-
sustaining treatment”

602

2 conditions

603

terminal
condition

604

“irreversible,
incurable, and
untreatable
condition”

605



606

“any medical procedure,
treatment, intervention,
or other measure that ...
principally to prolong the
process of dying”

607



608

Revocation

609

patient **has**
VSED AD

610

now has
late-stage
dementia

611

SO...

612

time to
honor AD

613

but

614



615

big **challenge**
for dementia
directives

616

whose wishes
do we respect?

617

prior self
or
current self

618

now patient
or
then patient

619

incapacitated
veto

620



621

have patient
address this
in AD

622

3 options

623

option **1**

624

“I want **my agent**
to decide”

625

option **2**

626

VSED → **CFO**

627

Comfort Feeding Only: A Proposal to Bring Clarity to Decision-
Making Regarding Difficulty with Eating for Persons with
Advanced Dementia

J Am Geriatr Soc. 2010 March ; 58(3): 500-504

Eric J. Palecek, MSIV[†], Joan M. Teno, MD, MS[†], David J. Casarett, MD, MA[‡], Laura C.

628

VSED

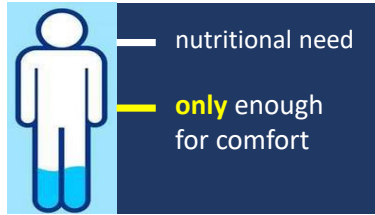
629



630

CFO

631



632

option 3

633

Ulysses clause

634

ignore my future self

635

stick to VSED plan in the AD

636

“no hand feeding even if I appear to cooperate by opening my mouth”

637



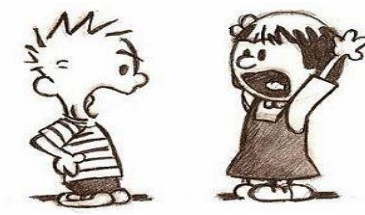
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with Ulysses, prior self prevails

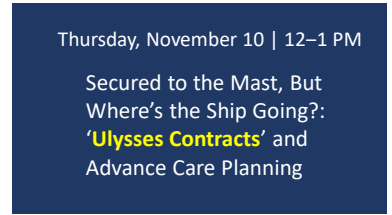
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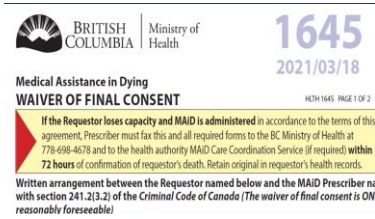
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649

“words, sounds or gestures ... refusal”

650



651



652



653

“words, sounds or gestures ... refusal”

654



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658

VSED

659



660

2019

661

duties to
current self
are primary

662

despite
VSED directive

663

2022

664

follow AD despite
current best interest
assessment

665

Conclusion

666

demand for
VSED AD

667



668

but

669



670

little guidance
courts, regulators

671

few institutional
policies & procedures

672

Ohioan with
capacity **may**
VSED today

673

Less clear if Ohioan
may authorize **later**
VSED through AD

674

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B medicalfutility.blogspot.com

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materials from this
presentation are available

<http://thaddeuspoppe.com/vsed>

676