

Voluntarily  
Stopping Eating &  
Drinking: A Legal  
Option in a State  
Where Physician-  
Assisted Dying is  
[Currently] Illegal



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End of Life Choices New York

# Plan to discuss....

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- End of Life Choices New York
  - mission & clinical goals
- Legalized physician-assisted dying (PAD) in America – a brief overview
- Efforts to **d**ecriminalize PAD in New York
- Meanwhile: Voluntarily Stopping Eating & Drinking – legal means to hasten dying

# End of Life Choices New York

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- Mission: expand choice and improve care at end of life (EOL) through advocacy, education & counseling
- EOL consultation x 15 years (previously known as Compassion & Choices of New York)
- Provides information & support regarding:
  - obtaining/completing advance med directives
  - facilitating timely palliative & hospice care
  - exploring patients' fears, hopes & wishes re death/dying

# EOLCNY....continued

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- Provide advocacy when EOL wishes not honored or symptoms of pain/suffering not well managed
- \* Educate and inform incurably/terminally ill patients re means to control timing of death
- Provide information re ‘legal’ means to hasten dying when suffering cannot otherwise be relieved

# Legal Status of Assisted Dying in New York

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- *Assisted Suicide* = ‘act of intentionally causing or assisting another to commit suicide’ = 2<sup>nd</sup> degree manslaughter = felony punishable by 4 – 15 years jail
- Current EOLCNY litigation (*Myers v Schneiderman*) argues PAD is in NO WAY assisting in “suicide”
  - case brought on behalf of 3 terminally ill patients & 5 physicians who care for dying pts
  - goal: ‘decriminalize’ PAD > become another EOL option for decisionally capable, terminally ill patients able to self-administer lethal medication

# Legal Status of PAD in USA

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- Four states, OR, WA, VT & CA have authorized PAD with following safeguards/requirements:
- Pt is: state resident, terminally ill, decisionally capable, makes 2 verbal requests w 15 da interval, 1 witnessed written request & able to self-administer lethal medication
- 2 Physicians: assess/confirm prognosis & capacity, inform pt of alternatives like hospice document/report reasons for request
- 1 State MT, decriminalized w/o regulations

# American Support for PAD

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- 2015 national poll shows growing support
  - 7 of 10 surveyed favor PAD
- 81% of 18 to 34 yr olds support PAD (Brittany Maynard effect?)
- 2015 more than half of surveyed physicians now favor medically assisted dying (a 1<sup>st</sup>)
- However: most medical & nursing organizations oppose assisted dying eg AMA, Amer College of Physicians & Amer Geriatrics Society among others

# Legal Options to Hasten Dying in NY

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- Decisionally capable pts or their health care agents can forgo any/all life-sustaining treatments
- Use of high dose opiates to manage pain can secondarily hasten dying
- Use of palliative sedation for dying pts can hasten death indirectly because fluids are also stopped
- Voluntarily Stopping Eating & Drinking (VSED)



# Voluntarily Stopping Eating & Drinking

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- Nobody's 1<sup>st</sup> choice...most would prefer a pill
- Appropriate option for those with no good alternatives to relieve intolerable suffering
- Requires for “success” a very determined, well informed, decisionally capable person
- Also requires social &/or family support + caregiving assistance & access to palliative or hospice oversight
- And patience...

# VSED con't

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- “Success” understood as peaceful death that occurs within days to two weeks following start of fast
- Key is ability to stop all oral intake
- In New York – working with increasing numbers of patients & families suffering from incurable/progressive dementia type diseases  
> ‘challenges’ are practical & organizational..

# EOLCNY Guidelines & Safeguards

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- Request for information re patient-controlled dying must originate with competent patient & be voluntary & thoughtful
- Request for information re pt-controlled dying can NOT be made thru an advance directive, by health care agent or other surrogate decision- maker
- If questions about capacity arise, a referral to mental health professional will be made
- Patient can change his/her mind at any time

# Particular challenges w dementia

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- Memory problems: Remembering the ‘plan’
- Distinguishing decision to change plan from confusion, delusions &/or EOL agitation
- Guiding family...focus on patient’s comfort
- Issues arising when patient choosing VSED is resident of long term care facilities
- New York State has some horrible health care laws...

# VSED Cases...

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- Sarah...changed her mind....
- Effects of 'subtle' resistance from caregivers...
- One last ride around the block...