Big Picture

• The Ideal:
  – By providing every patient with optimal palliative care and psychosocial support at the end of life, no person would want to hasten their own death

• The Reality:
  – Not every patient receives optimal palliative care and psychosocial support, and even if they did, some would still face situations where they would want to hasten their own death

• The Ethical imperative:
  – Strive for the ideal, but consider alternatives that involve the hastening of death only as options of last resort
Definition of VSED

• **Not VSED:**
  – Many patients experience the loss of appetite and thirst towards the end of life, leading to dehydration, renal shutdown, somnolence, and death

• **VSED:**
  – An active decision by a competent patient with advanced illness to stop eating and drinking as a means of intentionally hastening death

Three questions about the ethics of VSED

1) Do patients have a right to refuse to eat and drink?

2) Is it morally acceptable for patients to choose VSED?

3) Is it permissible for clinicians to provide palliative care to patients who have chosen VSED?
Three questions about the ethics of VSED

1) Do patients have a right to refuse to eat and drink?

   – Yes. No ethical analysis could support force-feeding competent patients against their will at the end of life

Three questions about the ethics of VSED

2) Is it morally acceptable for patients to choose VSED?

   – No, intentionally choosing to hasten one’s death is suicide and is morally wrong

   – Yes, under some circumstances it may be morally acceptable to choose to hasten one’s death
VSED and Suicide

- VSED is suicide and is not a morally acceptable choice
  - No pathological condition is causing imminent death; this is not the end-stage of a disease
  - No pathological ban to eating – no obstruction exists
  - Motivated by burden of being alive
  - VSED = suicide – intent to create a new pathophysiological state necessary to make the self dead


VSED and suicide: the role of rational decision-making

- “A patient's decision can be considered “rational” if it does not cause harm to the patient without sufficient reason, such as avoiding a greater harm.”

- “An otherwise healthy anorexic who weighs the benefits of not eating more highly than the risk of death from starvation arguably is acting irrationally in ranking priorities in that order.”

- “It is much more difficult to argue that a patient with terminal cancer or another advanced illness who ranks weeks to months of physical and existential suffering as worse than immediate death is acting irrationally or lacks decision-making capacity.”

Hastening Death by VSED - 10-14-2016

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VSED and suicide: the role of rational decision-making

• If suicide is wrong because it is always wrong to intend one’s death, then whether or not the decision is rational is irrelevant to the judgment about whether it is morally wrong.

• If suicide is morally wrong if and only if it is irrational, then VSED may not be morally wrong in many cases.

VSED and suicide: the role of intentions

• Patients who choose to forego LST could be motivated by:
  – A desire to avoid interventions where the burdens outweigh the benefits
  – A desire to hasten their death
  – Some combination of these or other desires

• When a patient requests terminal ventilator withdrawal, is it morally acceptable only when the patient views the ventilator as an unacceptable burden, but not when the patient also desires to hasten death?
VSED and suicide: the role of intentions

• When a patient refuses potentially life prolonging surgery, is it morally acceptable only when the patient views the surgery itself as an unacceptable burden, but not when the patient also views her currently QOL as unacceptable?

• When a patient requests DNR status, is it morally acceptable only when the patient views CPR itself as an unacceptable burden, but not when the patient views her current QOL as unacceptable?

VSED and suicide: the role of intentions

• When withdrawing ventilators, allowing patients to forego potentially life-extending surgery or agreeing to honor a DNR order, we neither scrutinize the patients’ intentions and motivations nor expect that, if we did, we would find desires that are homogenous and consistent

• Why should we place this heavy burden of insisting on a purity of intentions and motivations on decisions around VSED, but not on these other decisions to forego life-prolonging treatments?
Three questions about the ethics of VSED

3) Is it permissible for clinicians to provide palliative care to patients who have chosen VSED?
   – Yes, clinicians have a positive obligation to provide palliative care to all patients who need it
   – No, providing palliative care in VSED makes clinicians complicit in an immoral act

VSED and physician involvement in palliative care

• “The argument is that first, there is no legally relevant distinction between providing palliative care to manage the symptoms of a refusal to eat and drink and other situations where palliative care can be lawfully provided.”

• Ethically, “the provision of palliative care should be seen as part of the health professional’s role as a caregiver.”

VSED and physician involvement in palliative care

- Physicians “assist” with VSED when they –
  - Suggest the action
  - Give instruction on how to do it
  - Provide cover by not persuading the patient to eat and drink or by not stopping the action
  - Ease the action by hospitalization or provision of sedation
  - Fail to prevent or dissuade the patient

- As such, physician “assistance” with VSED should be legal only in jurisdictions that allow PAD


VSED vs Terminal Sedation: a slippery slope?

- Terminal sedation is performed when patients need to be sedated to the point of unconsciousness in order to be adequately palliated
  - The indications for sedation may be suffering of any sort: physical, emotional, existential, etc.
  - Such patients cannot be fed orally, and tube feedings are viewed as overly burdensome in these circumstances
  - TS is justified under the doctrine of double effect, although some view this as a fig-leaf justification

- Can the principles of terminal sedation be applied to patients who choose VSED and then request sedation to the point of unconsciousness?
VSED and Conscientious Objection

- Savulescu: Physicians always have an obligation to respect patients’ rights to refuse unwanted treatments, and have a positive obligation to provide palliative care as needed
  - Physicians opposed to withdrawing LST and/or unwilling to provide palliative care should not have a claim to conscientious objection

- Sulmasy: Physicians who are opposed to the intentional hastening of death should not be forced to be complicit in an immoral act
  - Claims of conscientious objection should be supported

VSED and Voluntariness

- VSED requires determination and will
- The decision is unlikely to be impulsive
- May be an affirmation of a commitment to live and die by one’s own principles
  - “My mother was not clinging desperately to what no one can have. She knew that death was not a tragedy to be postponed at any cost, but that death is a part of life, to be embraced at the proper time. She had done just what she wanted to do, just the way she wanted to do it”

VSED and Voluntariness: Concerns about depression

- How do we distinguish clinical or treatable depression from hopelessness and other existential symptoms
  - A desire for death is frequently associated with both
  - Is it necessary to demonstrate that the depression is refractory to treatment?
- While expert mental health evaluation is required by most PAD laws, not required nor enforceable for VSED
- One safeguard is to be sure that the desire for VSED is stable over time
  - Studies show that half of terminally ill patients who seriously consider euthanasia or PAD later change their minds


Discussing VSED with patients

- Discussion of VSED would be unduly persuasive
  - “[The] physician should not even mention this practice to his patient because, by doing so, the patient may be tempted or influenced to choose it.”
  - According to the "principle of collaboration, "it is wrong to cooperate in wrongdoing. Among other things, cooperation includes advising, assisting, or tempting others to engage in wrongdoing.”

Discussing VSED with patients

- Physicians have an obligation to discuss VSED
  - Physicians have obligations to inform patients of all potentially relevant treatment options
  - Discussing VSED does not necessarily need to be persuasive or imply an endorsement
  - If the physician does not discuss VSED, patients may embark on their own, without optimal support and palliative care
  - If the option of VSED is normalized, space is created for conversation, providing opportunities for the physician to evaluate the patient for treatable depression, etc.

(V)SED and patients without decision-making capacity

1) Patients who had previously expressed a preference for VSED

- Conundrum of whether to respect the wishes of the formerly competent patient or the apparent best interests of the now incompetent patient
- The trade-offs between these perspectives are probably best evaluated on a case-by-case basis
VSED and patients without decision-making capacity

2) For patients who have not expressed preferences around VSED, can eating/drinking ever be foregone on the best interests standard?

a) Patients with dementia who “refuse” to eat or drink,
   • how can we know if they are just being uncooperative or if they are expressing a preference?

b) Patients with dementia who have progressive difficulty swallowing
   • Such patients can often be hand-fed, but often only at the expense of great time and effort
   • In these cases, feeding tubes are often placed, more out of convenience than necessity
   • In patients who refuse a feeding tube, can the burdens of hand feeding ever exceed the benefits?

“Write about this, David. Tell others how well this worked for me. I’d like this to be my gift.

Whether they are terminally ill, in intractable pain, or, like me, just know that the right time has come for them, more people might want to know that this way exists.

And maybe more physicians will help them find it.”