

# END OF LIFE CHOICE ACT IMPLEMENTATION

## End of Life Choice Act 2019 and assisted dying services

### Information for the public

July 2021

This information sheet is for people who want to know more about the implementation of the End of Life Choice Act 2019 and the introduction of assisted dying in New Zealand.

The Ministry of Health (the Ministry) is leading the implementation of the End of Life Choice Act 2019 (the Act). More information can be found on [the Ministry's website](#).

You can read the Act in full on [the New Zealand Legislation website](#).

Note: The Act and this information sheet refers to health practitioners, medical practitioners and nurse practitioners. You can find an explanation of these terms at the end of this information sheet.

### **People will be able to request assisted dying from 7 November 2021**

Assisted dying will be legal in New Zealand from 7 November 2021, which is a year after the results of the 2020 referendum on the Act were announced.

The introduction of assisted dying means that a person with a terminal illness who meets the eligibility criteria can request medication to relieve their suffering and end their life.

The Act sets out the legal framework and a high-level process for accessing assisted dying, including strict eligibility criteria and safeguards.

Assisted dying is not a replacement for palliative care or health care services more generally. It provides another option for people with a terminal illness in certain circumstances.

Assisted dying remains illegal until 7 November 2021.

## **There are strict criteria to be eligible for assisted dying**

The Act gives a person the option to request assisted dying. However, they must meet strict and specific criteria to be eligible. Not everyone with a serious illness will be eligible for assisted dying.

To be eligible, a person **must meet all** of the following criteria:

- be aged 18 years or over
- be a citizen or permanent resident of New Zealand
- suffer from a terminal illness that is likely to end their life within six months
- be in an advanced state of irreversible decline in physical capability
- experience unbearable suffering that cannot be relieved in a manner that the person considers tolerable
- be competent to make an informed decision about assisted dying.

A person can't access assisted dying solely because they are suffering from a mental disorder or mental illness, have a disability, or are of advanced age.

## **A person must go through an assessment process to be found eligible**

Under the Act, the attending medical practitioner (the medical practitioner who starts the assessment process for assisted dying) and a second independent medical practitioner must both assess the person and agree that the person is eligible for assisted dying.

The person must be found to be competent to make an informed choice about assisted dying. This means that the person can understand, retain, use, and weigh relevant information about assisted dying, and can communicate their decision in some way.

If either of the two medical practitioners are unsure that the person is competent to make an informed decision, a psychiatrist would then assess the person to determine if they are competent.

The person must also be considered competent at the time of request and must also be competent at the time the medication is administered. Advance directives cannot be used for assisted dying in New Zealand.

## **A person will have some choice about who provides assisted dying services to them**

Assisted dying services will be available in a way that means the person seeking assisted dying will have some choice over the medical or nurse practitioner who provides the service to them.

Medical practitioners and nurse practitioners have certain roles under the Act. Medical practitioners can complete more of the process, including eligibility assessments. Either a medical practitioner or a nurse practitioner can administer the medication.

A person could decide that they would like the medical practitioner who does the first assessment and guides them through the process to be someone they already have a relationship with. For example, this could be their regular general practitioner (GP), their specialist (such as an oncologist), or a practitioner from a kaupapa Māori provider.

As with other health services, practitioners need to have the right skills and knowledge to be able to provide assisted dying services. Practitioners can also choose not to provide assisted dying services for reasons of conscientious objection. This means while the person has some flexibility, their choices may be limited depending on if their preferred practitioner is willing and able to provide assisted dying services.

## **A person can get help to find a practitioner who is willing to provide assisted dying services**

If a person's medical practitioner does not provide assisted dying services, the person will be able to get help to find a medical practitioner who can provide this service. The Support and Consultation for End-of-life in New Zealand (SCENZ) Group will hold a list of practitioners who are willing and able to provide assisted dying services.

If a medical practitioner does not provide assisted dying services as they do not have the right skills or knowledge, then they have a responsibility to ensure that the person can still access the care they need. This might include helping the person contact the SCENZ Group.

If a person requests assisted dying from a medical practitioner who does not provide assisted dying services due to a conscientious objection, the medical practitioner is legally required to:

- inform the person of their objection
- tell the person they have the right to ask the SCENZ Group for the name and contact details of a medical practitioner who is willing to participate in assisted dying.

A person will also be able to contact the SCENZ Group directly for help to find a medical practitioner if they do not want to speak to their own medical practitioner about assisted dying.

## **Assisted dying services will generally be provided in a person's home or other community settings**

Assisted dying services will generally be provided in a person's home or other community settings, rather than in hospital settings. In some situations, a person may not be well enough to travel to appointments during the assessment process, and most people are likely to choose to die at home, if possible. A person's medical or nurse practitioner will be able to travel to the person to provide care.

In some situations, a person may live somewhere where it is not possible or appropriate to provide assisted dying services. If this happens, then a person's medical practitioner will provide advice on what options the person may have.

## **Only the person choosing an assisted death can start the process and provide consent**

The decision to request assisted dying can only be made by the individual person seeking it as an option. It must be the person's informed choice and they must have made this choice without pressure from anyone else.

Whānau, carers, welfare guardians, or holders of an enduring power of attorney, cannot request assisted dying on behalf of another person.

The Act outlines certain steps that should take place to ensure a person is making an informed choice of their own free will.

- The person must be the one to raise the topic of assisted dying. A health practitioner cannot suggest it as an option.
- If a person requests assisted dying, their medical practitioner will talk to them about their other options for end-of-life care, such as palliative care, to make sure they understand the options that are available to them.
- A person will be encouraged to discuss their choice with whānau and be given time to do so. Whānau, carers or welfare guardians can support a person, but they cannot make a decision about assisted dying on behalf of someone else.
- Their medical practitioner will speak to the person's whānau if the person has given consent for the medical practitioner to do so. The medical practitioner can't tell the person's whānau that the person is considering or choosing assisted dying unless the person has given their consent.
- The person's medical practitioner will speak to other health practitioners that the person is in regular contact with.

## **An eligible person has some decisions to make about their assisted death**

If a person is eligible for assisted dying there are several decisions for them to make.

- A person will choose a date and time for the medication to be administered
  - Once a person has chosen the date and time for the administration of the medication, they can also choose to delay this date for up to six months from the date originally chosen. Delays longer than six months are possible, but will mean a person has to reapply for assisted dying.
- A person will choose the place they want to be when the medication is administered, such as in hospital or at home. They can also choose if they would like whānau or other people present.
- A person will choose how they would like the medication to be administered. They can request that a medical or nurse practitioner administers the medication, or they can choose to self-administer the medication (in the presence of a medical or nurse practitioner).

It is important to note that some options may not be appropriate or possible depending on a person's condition or other factors, such as if they live in managed accommodation that does not permit assisted dying in its facility. In those cases, a person's medical or nurse practitioner will be able to provide advice about a person's options.

## **A person can change their mind at any time**

If a person changes their mind about choosing assisted dying, they can stop the process at any time up until the point that the medication is administered. The medical practitioner must explain that they can change their mind as part of the assessment process.

Before the medication is administered, the medical or nurse practitioner will ask the person if they choose to receive the medication. The person can choose one of three options:

- to take the medication then
- to delay taking the medication to a later date (within six months of the date originally chosen)
- to cancel their request for assisted dying.

If during any stage of the process it is found that the person is not eligible, the medical or nurse practitioner must stop the process and explain the reason the process has stopped to the person. An example of this could be that the person is no longer considered competent to make an informed choice.

The medical or nurse practitioner must also stop the process if they think the person is pressured by someone else to choose assisted dying over another option. Assisted dying must be the choice of the person requesting an assisted death.

## **Whānau can support their loved one through the assisted dying process**

Whānau and carers can play an important role in supporting someone through the process, if the person seeking assisted dying wishes this. This could include:

- helping someone understand and consider their end-of-life options
- attending medical appointments with someone (a medical practitioner may want to speak to the person on their own at some points in the process)
- providing personal care, such as bathing and feeding
- offering care and support when the medication is administered.

## **Assisted dying services will be publicly funded, but a person may have to pay for other costs**

Assisted dying services will be publicly funded. A person will not have to pay for appointments that are part of the assisted dying process.

There may still be costs associated with someone's wider health care, as costs for this are considered separate to the funding that covers assisted dying services.

### **If a person requests assisted dying services through a GP**

The person will not have to pay for GP appointments that are part of the assisted dying process. A person will have to pay for the GP appointment in which they request assisted dying, as they have not yet started the process.

There may be some situations where a person's GP does not provide assisted dying services. A person will still have to pay for the GP appointment in which they request assisted dying services. During this appointment the GP should tell the person how they can find another medical practitioner who can help them start the assisted dying process (as described above).

A person may then choose to start the assisted dying process with a medical practitioner who is not their GP. For example, a medical practitioner on the list held by the SCENZ Group. The person can still talk to their GP about assisted dying if the GP is comfortable with this. However, the person will have to pay for these GP appointments as they are part of their wider health care, not part of the assisted dying process.

### **If a person needs other supports or health services**

A person requesting assisted dying may need other support or health care to treat their terminal illness or other health needs, such as at-home care, counselling or medications. Any care that is

not directly related to assisted dying will be provided through existing services. This means any payments related to this care, such as prescription costs, will still apply.

## Further information and support

Further information about assisted dying services will be made available over the coming months. You can read more about the implementation of the Act on [the Ministry's website](#).

Assisted dying is a sensitive topic and may be difficult for some people. If reading this information has raised some distressing feelings for you, please know there is support available. You can call or text [1737](#) for free to speak to a trained counsellor at any time.

## Health practitioners, medical practitioners and nurse practitioners

A **health practitioner** is the term for health professionals who are required to be registered and hold a practising certificate, such as doctors, nurses and pharmacists.

Some types of health practitioners have additional roles that they can perform under the Act.

A **medical practitioner** means a doctor who is registered with the Medical Council of New Zealand, and who holds a practising certificate. Determining a person's eligibility for an assisted death can only be done by a medical practitioner.

A **nurse practitioner** has advanced education, clinical training and the demonstrated competence and legal authority to practise beyond the level of a registered nurse. The administration of assisted dying medication can only be done by a medical practitioner, or a nurse practitioner.



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