

END OF LIFE CHOICE ACT IMPLEMENTATION

End of Life Choice Act 2019

Information for health professionals

May 2021

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

The Ministry of Health is currently working to implement the End of Life Choice Act 2019 (the Act). More information, including information sheets for health service providers and the public, can be found on [the Ministry's website](#).

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

Note: this information is relevant to health professionals working in many different roles and settings. This includes health practitioners, including medical practitioners, nurse practitioners and nurses, as well as other health professionals, such as health care assistants or carers.

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

The Act outlines the legal framework that allows a person who has a terminal illness and meets the eligibility criteria the option to request medication to relieve their suffering and end their life.

A person can choose to self-administer the medication (in the presence of a medical or nurse practitioner), or request that a medical or nurse practitioner administers the medication.

People will have the option to request assisted dying from 7 November 2021. This is a year after the results of the 2020 public referendum were announced.

Assisted dying remains illegal in New Zealand until this date, and no part of the process can start before then.

Assisted dying is another option for people who have a terminal illness and exists within the context of other health services. It is not a replacement for palliative care or health care services more generally.

A person must meet 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 cannot receive 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 be competent to make an informed decision about assisted dying

One of the criteria for eligibility is that the person is “competent to make an informed decision about assisted dying”. This means the person requesting assisted dying must be assessed and found competent to make an informed choice about assisted dying. A person’s competence is not assumed.

Both the medical practitioner treating the person and a second, independent medical practitioner must agree that the person is eligible for assisted dying.

If either medical practitioner is unsure of the person's competence to make an informed decision, a third opinion from a psychiatrist must be sought to determine competency.

If the opinion is reached that the person is not eligible as they are not competent to make an informed decision, the process ends. The person must be considered competent at the time the medication is administered. Advance directives cannot be used for assisted dying.

The process can stop 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 to take the medication then, delay taking the medication to a later date (within six months of the date originally chosen), or cancel their request for assisted dying.

If during any stage of the process it is decided 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.

The medical or nurse practitioner must also stop the process if coercion is suspected.

Talking to patients about assisted dying

As a health professional you may be asked about assisted dying. It is important you think about how you may respond if assisted dying is raised with you. This includes how you can respond with respect and compassion, regardless of your personal views.

The Act is clear that the person requesting assisted dying must be the one to raise it first. Health professionals are not able to suggest assisted dying as an option or initiate discussion about assisted dying unless the person has done so first.

If someone asks you about their options for end-of-life care

You can talk to them about their other options, such as palliative care. However, you can only talk to them about assisted dying if they raise this with you first.

If a person's carer, whānau or friend asks you about assisted dying

You can direct them to general information about the service. Where appropriate, you can also make them aware they can't make a request on another person's behalf and that assisted dying must be requested by the person and must be the person's choice based on their informed consent.

Whānau, carers, welfare guardians or holders of an Enduring Power of Attorney cannot request or make a decision about assisted dying on someone's behalf.

If a person who is not eligible (such as not having a terminal illness) requests assisted dying

If you have a conscientious objection you are not required to assess eligibility. If you are a medical practitioner without a conscientious objection, following consideration against the eligibility criteria,

you should explain to them that they are not eligible, and why. You can talk to them about their other care options, how they feel about these options and why they raised assisted dying.

You should also consider whether the person would benefit from being referred to or told about other services, such as mental health or wellbeing support.

If a patient raises assisted dying with you before 7 November 2021

You can tell them that assisted dying is not yet available in New Zealand. People can only request assisted dying from this date.

If someone wants further information about assisted dying, you can direct them to the Community Information sheet on the Ministry's website.

Being involved in assisted dying services

The Act outlines the high-level process for providing assisted dying services. This process explains certain steps that include medical practitioners, psychiatrists, pharmacists and nurse practitioners. If you are in one of these professions, you may wish to consider if you are willing to be part of this process.

- If you are a medical practitioner, you may wish to consider if you are willing to perform assessments and administer the medication, or provide an independent second opinion.
- If you are a psychiatrist, you may wish to consider if you are willing to provide a competency assessment.
- If you are a pharmacist, you may wish to consider if you are willing to dispense the medication.
- If you are a nurse practitioner, you may wish to consider if you are willing to administer the medication.

Outside of the process outlined in the Act, there are other ways that health practitioners and health professionals can be involved in supporting someone who is choosing assisted dying. This includes care that could be provided by nurses or health care assistants.

This care could include:

- taking part in conversations with a person and their whānau about assisted dying
- providing expertise if a person would benefit from a specific approach, such as when working with disabled people, Māori or Pacific peoples
- discussing appointments for assisted dying or making practical arrangements to help prepare for the assisted death
- being present and provide comfort care to the person and support to their whānau at the time of the assisted death.

Obligations if conscientiously objecting

You do not have to be involved in providing assisted dying services if you have a conscientious objection.

Regardless of your personal beliefs you should still meet professional standards by not inhibiting someone's access to lawful medical treatment and ensuring that continuity of care is maintained for a person requesting assisted dying.

If a medical practitioner with a conscientious objection is asked by a patient about assisted dying, they have certain responsibilities under the Act. They must:

- inform the person of their objection
- tell the person that they have the right to ask the Support and Consultation for End of Life in New Zealand (SCENZ) Group for the name and contact details of a medical practitioner who is willing to participate in assisted dying.

The Act establishes the SCENZ Group to oversee a range of responsibilities related to assisted dying. These responsibilities include making and maintaining a list of health practitioners who are willing to provide assisted dying services. You can read more about the SCENZ Group on [the Ministry's website](#).

Other health practitioners with a conscientious objection can also follow these steps. They could also suggest that a person talks to their medical practitioner about assisted dying and/or direct a person to where they can find information about assisted dying.

Oversight over assisted dying

The Ministry of Health will be responsible for the Act and has developed a work programme to implement it. The Ministry will also hold responsibilities for the ongoing oversight of assisted dying services once they are available.

The Act also creates three statutory roles within the health system to oversee assisted dying and make sure the processes outlined in the Act are followed.

The (SCENZ) Group

The SCENZ Group's role includes maintaining a list of health practitioners who are willing to be involved in assisted dying. It also has responsibilities relating to the Standards of Care, the required medical and legal procedures and the provision of practical assistance.

The Registrar (assisted dying)

The Registrar's role includes checking that the processes required by the Act have been complied with and notifying the medical practitioner of whether the process can continue. The Registrar can also receive complaints and, if necessary, refer them to the appropriate agency, such as the Health and Disability Commissioner.

The End of Life Review Committee

The End of Life Review Committee's role includes considering reports about the assisted death of a person under the Act and reporting to the Registrar on whether these reports show compliance with the Act.

Assisted dying and health service providers

Assisted dying will operate differently within different health service providers, such as hospitals, primary care and aged residential care. As with other health care services, health providers will need to develop their own systems and processes to manage assisted dying.

You can find information about health service providers can start preparing for when assisted dying is available on [the Ministry's website](#).

The Ministry is still working to implement the Act, including developing policy for assisted dying services and service design. Further guidance will be available as this work progresses.

Further information and guidance

An online training module about the Act is now available through the Ministry's [LearnOnline](#) platform. The module includes information health professional's rights and responsibilities under the Act. All health professionals are strongly encouraged to complete this module as it may help if you are asked about assisted dying.

Further guidance and training, including a series of webinars about assisted dying, will be available in the coming months. You can expect to receive updates through your employer or professional organisations about this.

The Ministry will provide more information about the implementation of the Act on [its website](#) as it becomes available. You can also subscribe to the Ministry's [newsletter for regular updates](#).

Support for health professionals

Assisted dying is a sensitive topic and may be difficult for some people.

You may want to talk to your colleagues or your employer about assisted dying services. These conversations can be important in deciding if and how you may be involved once assisted dying services are available.

If reading this information or talking about assisted dying 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

- call or text the Depression Helpline – [0800 111 757](tel:0800111757) or free text [4202](tel:4202) to talk to a trained counsellor
- call the Family Services Directory for help finding, and direct transfer to, community-based health and social support services in your area – [0800 211 211](tel:0800211211)
- access employee support services like the Employee Assistance Programme (EAP).



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