


Assisted dying

Compassionate, manifestly safe, but unfairly out of reach for some

Assisted dying (*mate whakaahuru*) has been accessed in New Zealand since November 2021 under the End of Life Choice Act (2019). It is regulated by the Ministry of Health and operated by Te Whatu Ora/ Health NZ. Publicly available data and reports show that assisted dying is well-safeguarded; there is no evidence of abuse or coercion. See www.health.govt.nz 

The good news.

- ▲ For those who meet the criteria, the law works compassionately as intended.
- ▲ The feedback from patients who have been approved is moving and consistent, speaking of the huge relief they feel as palliation in itself.
- ▲ The feedback from whānau and friends is equally reassuring; they talk of the peace and calm, the relief and the gratitude they feel.

Unfair, discriminatory and cruel barriers to access.

But some who need the option of assisted dying most are still ineligible because of the way the law was written. We have a chance now to change the law and make it fairer, less discriminatory and better based on human rights.

1. The “6-month” requirement.

Currently, the law requires two independent doctors to assess the person as “likely to die within 6 months”. Doctors freely acknowledge that prediction of time-to-death is difficult, often inaccurate and sometimes impossible. It is therefore a nonsense requirement, causing people dying slowly from incurable diseases to suffer more and for longer. This lacks compassion, is unfair and does not provide any additional safeguard benefit.

Cause of death in general	%	Cause of assisted death	%
Cardio-vascular disease	31%	Cardio-vascular disease	6%
Cancer	30%	Cancer	67%
Alzheimer’s and other dementias	10%	Alzheimer’s and other dementias	0%

Right now, people suffering from neuro-degenerative conditions such as Parkinson’s, multiple sclerosis, Alzheimer’s or other dementias, motor-neurone disease, Ehlers-Danlos syndromes, for example, are mostly ineligible for assisted dying. The same applies to people with chronic, incurable diseases like end-stage lung or end-stage heart disease, with post-infectious diseases like post-polio, or with progressively debilitating congenital disease. They are unfairly barred from a peaceful death by the “6-month” requirement. Data from Health NZ show that 75% of applicants for assisted dying are already receiving palliative care at the time of applying.

2. The “gag”. Currently, the law does not allow a doctor to discuss the option of assisted dying unless the person first asks them to discuss it. This discriminates against some who have poor health-literacy, are less well-educated, the elderly and the poor without internet research skills, and those lacking in confidence with doctors. The “gag” is ethically dubious, lacks compassion, is unfair and forces inequity into the system. 82% of people who access assisted dying are Pākehā, although Pākehā comprise only 68% of the population. Māori account for only 6% of assisted dying applications, although 17% of the population is Māori.

What needs to change?

- ▲ Get rid of the “6-month” requirement. Replace it with a requirement to have a serious and incurable medical condition likely to lead to death.
- ▲ Get rid of the “gag”. Allow doctors to raise the topic of assisted dying where appropriate, provided they discuss all other options for end-stage care at the same time, including palliative care.

What needs to stay the same?

- ▲ Retain the requirement for the person to be “in an advanced state of irreversible decline in physical capability”. This is a good safeguard in the current legislation.
- ▲ Retain the requirement for the person to be “experiencing unbearable suffering that cannot be relieved in a manner that the person considers tolerable”. This is a good safeguard in the current legislation.

Visit

www.legislation.govt.nz

For more information see

www.eolc.org.nz

“ Her last words to me were that she felt ‘privileged’. Her son was with her when she died.” *(Person who accessed assisted dying.)* ”

“ She was effectively a prisoner in her bed. She was unrelentingly unhappy; no medication helped. Her dementia cruelly allowed her to be aware of her confusion and delusions. Repeatedly she asked me to help her to die. When I didn’t, she starved herself to death. ”

“ My neurological illness has robbed me of any quality of life. Being housebound, in near darkness and silence, reliant on carers for everything and only able to take liquid food, has sapped the joy from my life. Living with this illness for the last 30 years has shown me how I will deteriorate. It will be a long, slow, painful road of physical decline for me and distressing for my family to witness.” *(Person living with an incurable, progressive condition that is not likely to cause death within 6 months).* ”

“ Waves of relief swept over me when my doctor told me I’d been approved for assisted dying. ”