Unintended consequences of the End of Life Choice Act

Adam Sims, Gary Cheung

The *End of Life Choice Act* (the *Act*) was implemented in New Zealand in November 2021. The Act provides a medico-legal framework for terminally ill people experiencing unbearable suffering to access assisted dying. In the first year, there were 661 applications and 257 assisted deaths.[1] However, 91 people were assessed as ineligible by attending medical practitioners who reviewed eligibility against the criteria as outlined in the *Act* and the clinical outcomes of these ineligible cases are unknown.[1] We report the case of a 96-year-old man (Mr B) and 95-year-old woman (Mrs D) who attempted suicide after they were deemed ineligible for assisted dying. Both cases were admitted to a tertiary hospital in New Zealand following their suicide attempt. The first author worked as a liaison psychiatrist in the hospital and assessed both cases as part of his clinical work during the first year of assisted dying being available in New Zealand. Both cases provided informed consent to share their stories in the hope that their experiences could improve future patient care.

Case reports

Mr B's wife died 18 months prior to his presentation to hospital, and he reported feeling "lonely and desperate" since her death. As a result, he moved into residential care from independent living. He suffered from insomnia and worsening mood in the weeks leading up to his residential care placement and was prescribed melatonin and escitalopram. He requested assisted dying through his general practitioner, but this was declined because he did not suffer from a terminal illness that was likely to end his life within 6 months. He then contacted family members saying goodbye, stating he was suicidal. He was later found on the floor of his room with a call bell tied around his neck. He was transferred to hospital via ambulance for further assessment. While in hospital, he had another self-strangulation attempt using his hands. His antidepressant was switched to sertraline and his mood gradually improved. He became more animated and less hopeless in his disposition. On reflection in hospital, he reported feeling increasingly demoralised when told he was ineligible for assisted dying and this promoted his suicidal thinking. He denied past history of depression, suicide attempt or other mental health problems. He had chosen strangulation because of its "availability". He said he had not contemplated suicide before being told he was ineligible for assisted dying. Of note, his older sister suffered from depression and died by suicide in her 20s.

Mrs D lives in an independent flat with a package of care to support her needs and close oversight from family members. She has death wishes for 5 years. She approached her general practitioner about assisted dying but was deemed ineligible because she did not have a terminal illness that was likely to end her life within 6 months. She then acted to take her life by overdose after stockpiling medication. On admission to hospital, she was confused but recovered well and was discharged back home a few days later. She has been an active member of EXIT and strong advocate for end-of-life choice. She has previously considered flying to Switzerland to end her life. Of note, her brother died by suicide in his 20s. She maintained an active wish to die after discharge but made no further plans to harm herself.

Discussion

Neither of these cases were referred to the Ministry of Health's Assisted Dying Service due to their ineligible status. Both individuals were in their 90s and acted to take their life after being told they were ineligible by their general practitioner. Interestingly, they both had siblings who died by suicide in their 20s. These two cases reflect the possible unintended consequences of the *Act*. Since the *Act* is likely to have a significant societal change as assisted dying becomes "normalised" in New Zealand, it may have been a contributing factor to their openness in expressing their death wishes to their general practitioner and requesting an assisted death. There is very limited international literature on suicide attempt in the context of ineligibility for an assisted death.

In 2020, Isenberg-Grzeda et al. reported the first ever case series of three older adults in their 80s who attempted suicide after they were deemed ineligible for an assisted death in Canada.[2] All three cases had a history of depression and mild cognitive impairment, while two cases had a history of suicide attempts. The authors highlighted the time following an ineligible assisted-death assessment represents a heightened at-risk period.[2] There has also been a case report of an older Canadian man with pancreatic adenocarcinoma who requested assisted dying after a suicide attempt.[3] Our first case had a diagnosis of depression, and we can conceptualise his wish to die as part of his depressive syndrome. Our second case had chronic death wishes but no clear diagnosis of depression. She might have a subsyndromal depressive illness, but death wishes in the very old are not uncommon and could be part of an existential crisis, rather than an underlying psychiatric disorder. The limited international literature and our two cases suggest a comprehensive suicide risk assessment should routinely form part of an assisted-death assessment. The Ministry of Health has developed a care pathway for practitioners providing assisted dying services, including ensuring an ineligible person is supported to have access to primary or end-of-life care.[4] However, there is no guidance on suicide risk assessment. The management of those who are not eligible for assisted dying requires careful follow-up and treatment.

COMPETING INTERESTS
Gary Cheung is a member of Ministry of Health's Support and Consultation for End of Life New Zealand (SCENZ) Group.

AUTHOR INFORMATION
Adam Sims: Consultant Psychiatrist, Mental Health for Older Persons Service, Te Whatu Ora, Wellington.
Gary Cheung: Consultant Psychiatrist and Associate Professor, The University of Auckland.

CORRESPONDING AUTHOR
Adam Sims: Consultant Psychiatrist, Mental Health for Older Persons Service, Te Whatu Ora, Wellington.
E: adam.sims@mhaids.health.nz

REFERENCES
1. Manatū Hauora – Ministry of Health. Assisted Dying Service Data and Reporting: Assisted Dying Service yearly report 2021/2022 [Internet]. [cited 2023 Apr]. Available from: https://www.health.govt.nz/system/files/documents/pages/assisted-dying-1-year-report-2023-26apr23.pdf.
2. Isenberg-Grzeda E, Bean S, Cohen C, Selby D. Suicide Attempt After Determination of Ineligibility For Assisted Death: A Case Series. J Pain Symptom Manage. 2020 Jul;60(1):158-163. doi: 10.1016/j.jpainsymman.2020.02.016.
3. Nayyar D, Kawaguchi S, Mah B. Request for medical assistance in dying after a suicide attempt in a 75-year-old man with pancreatic adenocarcinoma. CMAJ. 2019 Jul 29;191(30):E838-40. doi: 10.1503/cmaj.190175.
4. Manatū Hauora – Ministry of Health. Assisted dying care pathways for health practitioners: Supporting information guide [Internet]. 2021 Sep [cited 2021 Sep]. Available from: https://www.health.govt.nz/system/files/documents/pages/3-assisted-dying-care-pathways-sep21_0.pdf.