Commentary Letter to the Editor on the Study of Mangino et al.

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Letter to the Editor

Commentary Letter to the Editor on the Study of Mangino et al.: Euthanasia and Assisted Suicide of Persons with Dementia

With interest, we read the study of Mangino et al. (Am J Geriatr Psychiatry 28:4 [2020] 466–477) in which they reviewed 75 cases of euthanasia and assisted suicide (EAS) in persons with dementia in the Netherlands published by the Dutch regional euthanasia review committees (RTE) (2011–2018). This overview indeed offers an unique insight into aspects of current practice, on an individual patient level. However, a number of issues need to be taken into account more explicitly when interpreting this report.

The first point concerns the evaluation process of each EAS case. In the Netherlands, EAS has been regulated by the Termination of Life on Request and Assisted Suicide Act (TLRASA) since April 1, 2002. Performing EAS is an emotionally demanding task for physicians, especially in the case of dementia. On top of this, by law physicians who perform EAS are potentially committing a criminal offence. After EAS, physicians have to inform the municipal coroner who will examine the cause of death, the actual performance of the EAS on-site, and the presence of the required documents, i.e., the report of the physician themselves, at least one second opinion of an independent physician, and an independent judgement of a SCEN-physician checks all documents and procedures before EAS can be beformed. The municipal coroner will then send the documents to the RTE for external review and informs the prosecutor . The RTE reviews all cases to determine whether the notifying physician have acted in accordance with the statutory due care criteria (see box, p. 467). This evaluation is a crucial document for the prosecutor who has to decide within twelve weeks whether the physician will be dismissed from criminal prosecution. Such simultaneous judgement by the RTE (disciplinary law) and prosecutor (criminal law) weighs heavily on the shoulders of physicians. Mangino et al. correctly state that the retrospective oversight system relies on self-reports by physicians involved in the EAS process. However, as explained above, the whole procedure involves more than evaluation of the RTEalone. All steps contribute to the transparency of the process before the external review by the RTE takes place.

A critical methodological issue is that the review is not based on a random selection of cases. RTEs only publish EAS cases online when these cases will provide new insights or issues. Although the TLRASA is almost 20 years old, implementation and interpretation is still an ongoing process, especially for patients with psychiatric disorders and dementia.[1,2] In the period 2011–2018, a total of 42,336 persons have received EAS of which 834 (2.0%) were persons with dementia. Since EAS for persons with dementia is not common in the Netherlands, about 10.0% (83 of 834) of these cases have been published, especially the most controversial cases.[3] Euthanasia in severe dementia is highly debated and complex, both clinically, emotionally and legally. Cases in which important dilemmas occur, have a high chance to be published online. Clearly, this limits the possibilities of generalizations, including the objective of the authors to "describe the characteristics of persons with dementia receiving EAS." This is also the case for findings regarding the difference between patients with a contemporaneous request and an advanced request, as a much higher proportion, if not all, cases with an advanced request will be published and only a minority of contemporaneous requests. Regarding the advanced requests it should be noted that of all persons with

dementia who have received EAS in 2017 and 2018, 166 of 169 (98.2%) and 144 of 146 (98.6%) were in the early stages of their dementia and fully competent with regard to their request for EAS[3]. Only 3 of 169 (1.8%) and 2 of 146 (1.4%) persons with dementia who received EAS in 2017 and 2018, respectively, were not able to communicate regarding their request and considered decisional incompetent. In these cases, an advance directive was decisive in establishing the voluntariness of the request.

At this time, there is discussion on euthanasia in persons with severe dementia in the Netherlands. On April 21, 2020, the supreme court in the Netherlands made a judgment on the interpretation of TLRASA by the RTE regarding the disciplinary law and by the prosecutor regarding interpretation of the criminal law regarding a specific EAS case concerning euthanasia on the basis of the advance euthanasia directive for a patient with severe dementia. This was the first case that has led to the involvement of the supreme since the TLRAS was installed in 2002, which emphasize the political and public debate on euthanasia in advanced dementia.[4] The respective EAS case was pre-sedated in consultation with the family and at the performance of euthanasia the patient woke up and tried to pull her hands back which may point to appearance of resistance. The criminal court judged that the physician has acted in line with the due criteria, so she was dismissed from prosecution. The Supreme Court, however, insisted on making her own decision to direct the interpretation and development of the TLRASA and stated in her final judgement that an advance request would be sufficient in the absence of signs that contrast with the patients' expression in the advanced request *and* when the person is still unbearably suffering. In this particular case, pulling back hands was not considered a sign of a changed wish for euthanasia, but as not overseeing a complex situation due to dementia. Presedation was considered good clinical practice to assure a respectful death. These subtle differences require specialized experience and knowledge by geriatric psychiatrists or elderly care physicians. In such exceptional cases, two second opinions of independent physicians are generally asked, in line with the guideline for EAS in psychiatric disorders of the Dutch Society of Psychiatrists.[5] Currently, the Royal Dutch Medical Association has initiated a project "euthanasia in dementia." This project aims to describe the conditions under which euthanasia is justifiable and can be professionally performed in patients with different stages of dementia in order to guide physicians in these very complex circumstances (https://www.knmg.nl/actualiteit-opinie/beleidsprogrammas/passende-zorg-in-de-laatste-levensfase/knmg-project-euthanasie-bij-dementie.html).

DISCLOSURE

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