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Make provision for NHS service commissioners to ensure that persons for whom they have responsibility for commissioning physical and mental health services have access to specialist and generalist palliative care and support services; to enable hospices to access pharmaceutical services on the same basis as other services commissioned by a clinical commissioning group; and to make provision for treatment of children with a life-limiting illness.

**B**E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**1 Palliative care and support**

- (1) In exercising functions in relation to the health service in England, the Secretary of State must ensure that an NHS clinical services commissioner must arrange for the provision of the following services to such extent as it considers necessary and appropriate to meet the reasonable requirements of the persons of all ages for whom it has responsibility— 5
- (a) access to specialist palliative care in hospital, in the community and in places of usual residence;
  - (b) facilities for the care of patients with life-limiting and life-ending conditions; 10
  - (c) general and specialist palliative care services consistent with the duty as to reducing inequalities specified in section 1C of the National Health Service Act 2006.
- (2) Any hospice which is providing palliative care services for adults or children is entitled to be treated as if its services were commissioned by a clinical commissioning group as part of the health service to the extent needed to enable the hospice to access pharmaceutical services on the same basis as any other service which is commissioned by a clinical commissioning group to provide services as part of the health service. 15
- (3) An NHS clinical services commissioner, in exercising functions under section 3(1)(c) of the National Health Service Act 2006, must ensure that— 20

- (a) persons in their area with palliative care needs have access to appropriate health services including, but not limited to, access to specialist palliative care; and
  - (b) clinicians providing general palliative care have access to specialist palliative care advice at all times. 5
- (4) NHS clinical services commissioners must include the provision of specialist palliative care and hospice care in any strategic plans to meet the needs of adults and children predicted to require such services.

## 2 Treatment of children with a life-limiting illness

- (1) This section applies where a health service body is considering making an application to the High Court under the Children Act 1989 or under the inherent jurisdiction of the High Court for an order which has the effect of approving the giving or withdrawal of any form of medical treatment for a child. 10
- (2) No application of a type referred to in subsection (1) may be made unless— 15
- (a) the health service body has followed a process of mediation with an independent mediator in an attempt to resolve any differences between the health service body and any person who has parental responsibility for the child or is recognised by the health service body to have an interest in the welfare of the child, and 20
  - (b) that process has been unsuccessful in reaching substantial agreement about the medical treatment to be given or not to be given to the child.
- (3) Subsection (2) does not apply where either—
- (a) the health service body satisfies the court that there is substantial urgency and it is in the best interests of the child to proceed to a court hearing without having a mediation process; or 25
  - (b) the health service body satisfies the court that it has made all reasonable attempts to undertake a mediation process but it has not been possible to undertake such a process due to the actions or omissions of anyone holding parental responsibility or having an interest in the welfare of the child. 30
- (4) In determining any application of a type referred to in subsection (1), the court shall assume, unless the contrary is clearly established, that any medical treatment proposals put forward by any person holding parental responsibility for the child are in the child’s best interests. 35
- (5) Nothing in subsection (4) requires, or may be relied upon to require, the provision of any specific medical treatment to a child by either a doctor or a health service body which a doctor or a health service body refuses on reasonable grounds to provide to a child.
- (6) This section does not apply in relation to court proceedings instituted before it comes into force. 40

## 3 Interpretation

In this Act—

“child” means a person under the age of 18;

“health service” means the health service in England and services provided as part of the health service; 45

“health service body” is any service functioning as part of or on behalf of the National Health Service;	
“health service hospital” has the meaning given by section 275 (interpretation) of the National Health Service Act 2006;	
“NHS clinical services commissioner” includes the NHS Commissioning Board and clinical commissioning groups as defined in sections 1H and 1I of the National Health Service Act 2006;	5
“palliative care” means care which is delivered to seek to improve the quality of life of persons with life-limiting illness or approaching the end of life, through the prevention and relief of suffering by means of early identification, assessment, treatment and management of pain and other problems whether physical, psychological, social or spiritual;	10
“parent” means a person with parental responsibility for a child in accordance with the Children Act 1989;	
“places of usual residence” includes places where persons in need of palliative care may be confined and includes care homes, supported residential accommodation, secure mental health facilities and prisons;	15
“specialist palliative care” means care provided by multi-disciplinary teams of specialists in palliative medicine and palliative nursing and allied health professionals who have undergone specialist training in palliative care, and related supportive disciplines.	20

#### **4 Extent, commencement and short title**

- (1) This Act extends to England and Wales only.
- (2) This Act comes into force on the day on which it is passed.
- (3) This Act may be cited as the Access to Palliative Care and Treatment of Children Act 2020. 25

# Access to Palliative Care and Treatment of Children Bill [HL]

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*Baroness Finlay of Llandaff*

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