

Assisted Dying Bill [HL]

AMENDMENTS TO BE MOVED IN COMMITTEE OF THE WHOLE HOUSE

Clause 3

BARONESS HOLLINS

Page 2, line 35, leave out subsection (5)

Member's explanatory statement

This is consequential to other amendments tabled in the name of Baroness Hollins.

After Clause 3

BARONESS HOLLINS

Insert the following new Clause—

“Commensurate capacity

- (1) For the purposes of this Act, section 1(2) of the Mental Capacity Act 2005 (whereby a person is assumed to have capacity unless it is established that he or she does not) does not apply.
- (2) Assistance with suicide under this Act may not be provided to a person unless it has been established that he or she has a level of capacity commensurate with a decision to seek assistance with suicide.
- (3) If the attending doctor is satisfied that a person requesting assistance for suicide has capacity commensurate with such a decision to end his or her own life, he or she must refer the person making the request to a specialist in psychiatry who must offer two assessments, spaced at least 28 days apart—
 - (a) for assessment to confirm that the person is not suffering from a mental disorder, including but not limited to depression, which might be impairing his or her judgement,
 - (b) for assessment to confirm that the person has a level of capacity commensurate with a decision to end his or her own life, and
 - (c) to perform any tests necessary to reach a judgement as to the person's level of capacity and make a report to the attending doctor.
- (4) If the attending doctor has any reservations concerning the presence of the required level of capacity, he or she may not consider the request further and must so inform the person making the request.

After Clause 3 - continued

- (5) For the purpose of subsection (3), a specialist in psychiatry must—
 - (a) be registered as a specialist in psychiatry with, and hold a current licence to practice from, the General Medical Council;
 - (b) be trained in assessment of decision-making capacity in persons with complex illness;
 - (c) be approved under section 12(2) of the Mental Health Act 1983 and report any involvement in assessment of requests for assistance with suicide at revalidation and re-licensing appraisals;
 - (d) be unconnected either personally or professionally with either the attending or the independent doctor;
 - (e) be unconnected, whether professionally, personally or socially, with the person making the request for assistance with suicide.
- (6) If both the attending doctor and the psychiatrist are satisfied that the person making the request has capacity commensurate with the decision to seek assistance with suicide and is not suffering from any condition which might impair that person's judgement, the attending doctor must forward the request to the independent doctor.
- (7) If either the psychiatrist or the independent doctor has reservations concerning the presence of commensurate capacity, the request must not proceed further and the person must be informed.
- (8) The presence of commensurate capacity in a person must be redetermined by the attending doctor at a time within 72 hours prior to the lethal drugs being self-administered."

Member's explanatory statement

This amendment takes into account the increased gravity of the decision for an assisted death and requires a corresponding and proportionate level of capacity to make that particular decision; provides for this decision-making capacity to be assessed and confirmed by a registered specialist psychiatrist; and ensures that a person retains the capacity commensurate with making the decision to end their own life right up until the self-administration of lethal drugs.

Clause 12

BARONESS HOLLINS

Page 7, leave out lines 35 and 36

Member's explanatory statement

This is consequential to other amendments tabled in the name of Baroness Hollins.

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24 November 2021
