

# **Mental Health (Compulsory Assessment and Treatment) Amendment Bill**

Member's Bill

## **Explanatory note**

### **General policy statement**

This Bill amends section 7A of the Mental Health (Compulsory Assessment and Treatment) Act 1992, (the **principal Act**) which provides for family or whānau involvement with members of their family or whānau who are being dealt with under the Act.

The Bill adds 2 new subsections. The first new subsection clarifies the rights of family and whānau once a practitioner has decided to consult them regarding a proposed patient or patient. The second new subsection sets out certain minimum entitlements for families and whānau even where a decision is made under the Act not to consult them about their family or whānau member. These changes will—

- ensure that, where appropriate, families and whānau will have significant involvement with family members being dealt with under the principal Act and be provided with sufficient information to make informed decisions about their family member; and
- ensure that in all cases families and whānau will be better informed about mental illness in general and therefore better able to give support to their family or whānau member, which in many cases will improve opportunities for recovery.

### Clause by clause analysis

*Clause 1* is the Title clause.

*Clause 2* is the commencement clause and provides for the Bill to come into force on the day after the date on which it receives the Royal assent.

*Clause 3* provides that the Bill amends the Mental Health (Compulsory Assessment and Treatment) Act 1992.

*Clause 4* sets out the purpose of the Bill, which is to amend the Mental Health (Compulsory Assessment and Treatment) Act 1992 to clarify the rights of families of those seeking or receiving treatment for mental illness.

*Clause 5* amends section 7A by inserting new subsections (6) and (7). New subsection (6) provides for the rights of families to access information about, and have involvement in, decisions about the treatment of members of their family and whānau. New subsection (7) provides for families to be treated in accordance with section 5 of the principal Act, minimum rights of access by families to certain information, and for protection of information provided by families relating to their family or whānau member.

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*Luamanuvao Winnie Laban*

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**The Parliament of New Zealand enacts as follows:**

- 1 Title**  
This Act is the Mental Health (Compulsory Assessment and Treatment) Amendment Act **2009**.
- 2 Commencement**  
This Act comes into force on the day after the date on which it receives the Royal assent. 5
- 3 Principal Act amended**  
This Act amends the Mental Health (Compulsory Assessment and Treatment) Act 1992.

**4 Purpose**

The purpose of this Act is to amend the principal Act to clarify the rights of families of those seeking or receiving treatment.

**5 Section 7A Amended**

Section 7A is amended by inserting the following subsections after subsection (5):

- “(6) Where a practitioner has decided to consult the family or whānau of a proposed patient or patient under **subsection (3)**, the family or whānau is entitled to—
- “(a) information about a family member’s illness and its diagnosis: 10
  - “(b) receive an explanation of the expected effects of any treatment offered to the family member, including the expected benefits and the likely side-effects, before the treatment is commenced: 15
  - “(c) be included in care planning, implementation, and review: 15
  - “(d) be consulted about a family member’s discharge plan: 15
  - “(e) seek a consultation with a psychiatrist of their own choice in order to get a second opinion, and, if the psychiatrist and the patient agree to the consultation, he or she be permitted access to the patient upon request. 20
- “(7) Regardless of any decision made under **subsection (3)**, the family or whānau of a proposed patient or patient is entitled—
- “(a) to be dealt with in a manner that accords with the spirit and intent of section 5: 25
  - “(b) to information about mental illness in general and strategies for coping with this: 25
  - “(c) to provide relevant information about the family member’s history, in confidence.” 30