

Mental Health (Compulsory Assessment and Treatment) Amendment Bill

(Divided from the Health Practitioners (Replacement of Statutory References to Medical Practitioners) Bill)

Government Bill

As reported from the committee of the whole House

This Bill was formerly part of the Health Practitioners (Replacement of Statutory References to Medical Practitioners) Bill as reported from the Health Committee. The committee of the whole House has divided it into the following Bills:

- Accident Compensation Amendment Bill (No 2) comprising clauses 1 and 2, and Part 1
- Burial and Cremation Amendment Bill comprising Part 2 and Schedule 1
- Children, Young Persons, and Their Families Amendment Bill (No 2) comprising Part 3
- Holidays Amendment Bill (No 2) comprising Part 4
- Land Transport Amendment Bill (No 3) comprising Part 5 and Schedule 2
- Medicines Amendment Bill comprising Part 5A
- this Bill comprising Part 6
- Misuse of Drugs Amendment Bill (No 2) comprising Part 7.

Hon Dr Jonathan Coleman

Mental Health (Compulsory Assessment and Treatment) Amendment Bill

Government Bill

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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 **2016**.

2 Commencement

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(1) This Act comes into force on a date appointed by the Governor-General by Order in Council, and 1 or more Orders in Council may be made bringing different provisions into force on different dates.

(2) Any provision that has not earlier been brought into force comes into force on the day that is 2 years after the date on which this Act receives the Royal assent.

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43 Principal Act

This **Act** amends the Mental Health (Compulsory Assessment and Treatment) Act 1992 (the **principal Act**).

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44 Section 2 amended (Interpretation)

(1) In section 2(1), insert in their appropriate alphabetical order:

health practitioner has the same meaning as in section 5 of the Health Practitioners Competence Assurance Act 2003

nurse practitioner means a health practitioner who—

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(a) is, or is deemed to be, registered with the Nursing Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of nursing and whose scope of practice permits the performance of nurse practitioner functions; and

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(b) holds a current practising certificate

primary health care provider means a health practitioner who manages and provides primary and ongoing health care to a patient

(2) In section 2(1), definition of **nurse**, delete “general”.

44A Section 2A amended (Meaning of proposed patient)

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In section 2A(b), replace “medical practitioner” with “health practitioner”.

- 44B Section 7A amended (Medical practitioner or responsible clinician to consult)**
- (1) In the heading to section 7A, replace “**Medical practitioner**” with “**Practitioner**”.
 - (2) In section 7A(1)(a), replace “medical practitioner” with “health practitioner”. 5
- 44C Section 8B amended (Medical practitioner’s certificate to accompany application for assessment)**
- (1) Replace the heading to section 8B with “**Certificate to accompany application for assessment**”.
 - (2) In section 8B, replace “medical practitioner” with “health practitioner” in each place. 10
 - (3) After section 8B(5), insert:
 - (6) In this section,—
health practitioner means—
 - (a) a medical practitioner; or 15
 - (b) a nurse practitioner; or
 - (c) a registered nurse practising in mental health**registered nurse practising in mental health** means a health practitioner who—
 - (a) is, or is deemed to be, registered with the Nursing Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of nursing and whose scope of practice includes the assessment of a person’s mental capacity; and 20
 - (b) holds a current practising certificate 25
- 44D Section 9 amended (Assessment examination to be arranged and conducted)**
- (1) Replace section 9(1) with:
 - (1) When the Director of Area Mental Health Services or a duly authorised officer receives notice of an application made under section 8A from the health practitioner who issued the certificate accompanying that application, the Director of Area Mental Health Services must make the necessary arrangements for the proposed patient to immediately undergo an assessment examination. 30
 - (1A) Notice of an application made under section 8A may be given by any means, including by telephone. 35
 - (2) Replace section 9(3) and (4) with:
 - (3) An assessment examination must be conducted by a health practitioner who is—

- (a) a psychiatrist approved by the Director of Area Mental Health Services for the purposes of the assessment examination, or of assessment examinations generally; or
- (b) if no such psychiatrist is reasonably available, a medical practitioner or nurse practitioner (not being a medical practitioner or nurse practitioner who issued the certificate under section 8B(4)(b)) who, in the opinion of the Director of Mental Health, is suitably qualified to conduct the assessment examination or assessment examinations generally. 5
- (4) The Director of Mental Health may delegate his or her function under **subsection (3)(b)** to the Director of Area Mental Health Services. 10
- 45 Section 10 amended (Certificate of preliminary assessment)**
- (1) In section 10(1), replace “medical practitioner shall” with “health practitioner must”.
- (2) In section 10(2), replace “medical practitioner shall” with “health practitioner must”. 15
- (3) In section 10(2)(d) and (3), replace “medical practitioner” with “health practitioner”.
- (4) In section 10(4),—
- (a) replace “medical practitioner considers” with “health practitioner considers”; and 20
- (b) replace “medical practitioner shall” with “health practitioner must”.
- (5) In section 10(4)(a)(v), replace “medical practitioner” with “primary health care provider”.
- 45A Section 11 amended (Further assessment and treatment for 5 days)**
- In section 11(1) and (2), replace “medical practitioner” with “health practitioner” in each place. 25
- 46 Section 12 amended (Certificate of further assessment)**
- In section 12(5)(e), replace “medical practitioner” with “primary health care provider”.
- 47 Section 14A amended (Documents relating to application for compulsory treatment order)** 30
- In section 14A(2)(d), replace “medical practitioner” with “primary health care provider”.
- 48 Section 29 amended (Community treatment orders)**
- In section 29(6)(c), replace “medical practitioner” with “primary health care provider”. 35

- 49 Section 76 amended (Clinical reviews of persons subject to compulsory treatment orders)**
In section 76(7)(b)(iv), replace “medical practitioner” with “primary health care provider”.
- 50 Section 79 amended (Tribunal reviews of persons subject to compulsory treatment orders)** 5
In section 79(10)(g), replace “medical practitioner” with “primary health care provider”.
- 50A Section 91 amended (Director and Deputy Director of Mental Health)** 10
In section 91(4), after “Act”, insert “(other than the function in **section 9(3)(b)**)”.
- 51 Section 96 amended (Visitations by district inspectors and official visitors)**
(1) In section 96(4), replace “medical practitioner” with “health practitioner”.
(2) In section 96(5), replace “medical practitioner” with “health practitioner” in each place. 15
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Legislative history

11 October 2016

Divided from Health Practitioners (Replacement of Statutory References to Medical Practitioners) Bill (Bill 36–2) as Bill 36–3G