



Mental Health Act 2007

2007 CHAPTER 12

PART 1

AMENDMENTS TO MENTAL HEALTH ACT 1983

CHAPTER 3

SAFEGUARDS FOR PATIENTS

Consent to treatment

27 Electro-convulsive therapy, etc.

After section 58 of the 1983 Act insert—

“58A Electro-convulsive therapy, etc.

- (1) This section applies to the following forms of medical treatment for mental disorder—
 - (a) electro-convulsive therapy; and
 - (b) such other forms of treatment as may be specified for the purposes of this section by regulations made by the appropriate national authority.
- (2) Subject to section 62 below, a patient shall not be given any form of treatment to which this section applies unless he falls within subsection (3), (4) or (5) below.
- (3) A patient falls within this subsection if—
 - (a) he has attained the age of 18 years;
 - (b) he has consented to the treatment in question; and
 - (c) either the approved clinician in charge of it or a registered medical practitioner appointed as mentioned in section 58(3) above has certified

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in writing that the patient is capable of understanding the nature, purpose and likely effects of the treatment and has consented to it.

- (4) A patient falls within this subsection if—
- (a) he has not attained the age of 18 years; but
 - (b) he has consented to the treatment in question; and
 - (c) a registered medical practitioner appointed as aforesaid (not being the approved clinician in charge of the treatment) has certified in writing—
 - (i) that the patient is capable of understanding the nature, purpose and likely effects of the treatment and has consented to it; and
 - (ii) that it is appropriate for the treatment to be given.
- (5) A patient falls within this subsection if a registered medical practitioner appointed as aforesaid (not being the responsible clinician (if there is one) or the approved clinician in charge of the treatment in question) has certified in writing—
- (a) that the patient is not capable of understanding the nature, purpose and likely effects of the treatment; but
 - (b) that it is appropriate for the treatment to be given; and
 - (c) that giving him the treatment would not conflict with—
 - (i) an advance decision which the registered medical practitioner concerned is satisfied is valid and applicable; or
 - (ii) a decision made by a donee or deputy or by the Court of Protection.
- (6) Before giving a certificate under subsection (5) above the registered medical practitioner concerned shall consult two other persons who have been professionally concerned with the patient's medical treatment but, of those persons—
- (a) one shall be a nurse and the other shall be neither a nurse nor a registered medical practitioner; and
 - (b) neither shall be the responsible clinician (if there is one) or the approved clinician in charge of the treatment in question.
- (7) This section shall not by itself confer sufficient authority for a patient who falls within section 56(5) above to be given a form of treatment to which this section applies if he is not capable of understanding the nature, purpose and likely effects of the treatment (and cannot therefore consent to it).
- (8) Before making any regulations for the purposes of this section, the appropriate national authority shall consult such bodies as appear to it to be concerned.
- (9) In this section—
- (a) a reference to an advance decision is to an advance decision (within the meaning of the Mental Capacity Act 2005) made by the patient;
 - (b) “valid and applicable”, in relation to such a decision, means valid and applicable to the treatment in question in accordance with section 25 of that Act;
 - (c) a reference to a donee is to a donee of a lasting power of attorney (within the meaning of section 9 of that Act) created by the patient, where the donee is acting within the scope of his authority and in accordance with that Act; and

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- (d) a reference to a deputy is to a deputy appointed for the patient by the Court of Protection under section 16 of that Act, where the deputy is acting within the scope of his authority and in accordance with that Act.
- (10) In this section, “the appropriate national authority” means—
- (a) in a case where the treatment in question would, if given, be given in England, the Secretary of State;
 - (b) in a case where the treatment in question would, if given, be given in Wales, the Welsh Ministers.”