



Mental Health Alliance

Displacement of the nearest relative

Clause 23 Extension of power to appoint acting nearest relative

- (1) In sub clause (5) at end add “because their appointment poses a risk to the health or well-being of the patient
- (2) Add (f) that in the reasonable opinion of the patient the person is not appropriate

Purpose of amendment

This amendment would allow a patient to seek displacement on broader grounds that the nearest relative is not an ‘appropriate person’ to carry out this role.

Briefing

The Bill allows a patient to go to the county court to seek displacement of their nearest relative if he/she is ‘unsuitable’. The Code of Practice makes it clear that this means cases of abuse or strongly suspected abuse. This was criticised by the Joint Committee on Human Rights as too narrow to enable a patient to displace a nearest relative with whom they do not get along, unless there is some undercurrent of abuse. This amendment would allow a patient to seek displacement on broader grounds that the nearest relative is not an ‘appropriate person’ to carry out this role.