

**Repealer et. al.**  
**LEGISLATIVE HISTORY CHECKLIST**  
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**LAWS OF:** 2013                    **CHAPTER:** 103

**NJSA:** Repealer et. al. (Changes pejorative terminology referring to mental capacity of individuals)

**BILL NO:** A3357                    (Substituted for S2224)

**SPONSOR(S)** Vainieri Huttle and others

**DATE INTRODUCED:** October 11, 2012

**COMMITTEE:**                    **ASSEMBLY:** Human Services

**SENATE:** ---

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**                    **ASSEMBLY:** December 3, 2012

**SENATE:** June 20, 2013

**DATE OF APPROVAL:** August 7, 2013

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

**FINAL TEXT OF BILL** (First reprint enacted)

**A3357**

<b>SPONSOR'S STATEMENT:</b> (Begins on page 102 of introduced bill)	Yes
<b>COMMITTEE STATEMENT:</b>	<b>ASSEMBLY:</b> Yes
	<b>SENATE:</b> No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

<b>FLOOR AMENDMENT STATEMENT:</b>	No
<b>LEGISLATIVE FISCAL NOTE:</b>	No

**S2224**

<b>SPONSOR'S STATEMENT:</b> (Begins on page 100 of introduced bill)	Yes
<b>COMMITTEE STATEMENT:</b>	<b>ASSEMBLY:</b> No
	<b>SENATE:</b> Yes
<b>FLOOR AMENDMENT STATEMENT:</b>	No
<b>LEGISLATIVE FISCAL ESTIMATE:</b>	No

(continued)

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

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**REPORTS:** Yes

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

974.90 L415 2011b

Final report relating to pejorative terms regarding persons who are mentally incapacitated: September 15, 2011 / State of New Jersey, New Jersey Law Revision Commission  
Newark, N.J. : New Jersey Law Revision Commission, 2011

<http://hdl.handle.net/10929/32608>

LAW/KR

P.L.2013, CHAPTER 103, *approved August 7, 2013*  
Assembly, No. 3357 (*First Reprint*)

1 AN ACT concerning terminology referring to the mental capacity of  
2 individuals and revising various parts of statutory law.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Section 20 of P.L.1982, c.77 (C.2A:4A-39) is amended to  
8 read as follows:

9 20. a. A juvenile shall have the right, as provided by the Rules  
10 of Court, to be represented by counsel at every critical stage in the  
11 proceeding which, in the opinion of the court may result in the  
12 institutional commitment of the juvenile.

13 b. During every court proceeding in a delinquency case, the  
14 waiving of any right afforded to a juvenile shall be **done**  
15 accomplished in the following manner:

16 (1) A juvenile who is found to **be competent** have mental  
17 capacity may not waive any rights except in the presence of and  
18 after consultation with counsel, and unless a parent has first been  
19 afforded a reasonable opportunity to consult with the juvenile and  
20 the juvenile's counsel regarding this decision. The parent or  
21 guardian may not waive the rights of a **competent** juvenile found  
22 to have mental capacity.

23 (2) Any such waiver shall be executed in writing or recorded.  
24 Before the court may accept a waiver, the court shall question the  
25 juvenile and **his** the juvenile's counsel to determine if the  
26 juvenile is knowingly, willingly, and voluntarily waiving **his** any  
27 right. If the court finds after questioning the juvenile that the  
28 waiver is not being made voluntarily and intelligently, the waiver  
29 shall be denied.

30 (3) **An incompetent** A juvenile who is found to lack mental  
31 capacity may not waive any right. A guardian ad litem shall be  
32 appointed for the juvenile who may waive rights after consultation  
33 with the juvenile and the juvenile's counsel **for the juvenile, and**  
34 **the juvenile**.

35 (4) Waivers shall be executed in the language regularly spoken  
36 by the juvenile.

37 (cf: P.L.1982, c.77, s.20)

38

39 2. N.J.S.2A:14-21 is amended to read as follows:

**EXPLANATION** – Matter enclosed in bold-faced brackets **thus** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AHU committee amendments adopted November 19, 2012.

1        2A:14-21. If **any** a person entitled to **any of the actions or**  
2 **proceedings** commence an action or proceeding specified in  
3 N.J.S.2A:14-1 to 2A:14-8 or N.J.S.2A:14-16 to 2A:14-20 or to a  
4 right or title of entry under N.J.S.2A:14-6 is **or shall be,** under the  
5 age of 18 years or a person who has a mental disability that  
6 prevents the person from understanding his legal rights or  
7 commencing a legal action at the time **of any such** the cause of  
8 action or right or title **accruing, under the age of 21 years, or**  
9 **insane, such** accrues, the person may commence **such** the action  
10 or make **such** the entry, within **such** the time as limited by  
11 those statutes, after **his coming to or being of full age or of sane**  
12 **mind** reaching majority or having the mental capacity to pursue the  
13 person's lawful rights. Notwithstanding the provisions of this  
14 section to the contrary, an action by or on behalf of a minor that has  
15 accrued for medical malpractice for injuries sustained at birth shall  
16 be commenced prior to the minor's 13th birthday, as provided in  
17 N.J.S.2A:14-2.

18 (cf: P.L.2004, c.17, s.4)

19

20        3. N.J.S.2A:14-32 is amended to read as follows:

21        2A:14-32. If any person having a right or title to real estate  
22 **shall,** is under the age of 18, or has been adjudicated  
23 incapacitated, or is outside the United States for purposes other than  
24 a military tour of duty at the time **such** the right or title first  
25 accrued or descended, **be either not of sound mind or under the age**  
26 **of 21 years, or without the United States, he, and his heirs,** that  
27 person may, notwithstanding the fact that the periods of time  
28 **mentioned** specified in **sections 2A:14-30 and 2A:14-31 of this**  
29 **title** N.J.S.2A:14-30 and N.J.S.2A:14-31 have expired, bring **his**  
30 **or their** an action to enforce **his or their** the right or title, **if**  
31 **such** provided the action **shall be** is commenced within **5** five  
32 years after **his** the disability is removed or **he comes** the person  
33 is physically present within the United States**, but not thereafter**.

34 (cf: N.J.S.2A:14-32)

35

36        4. N.J.S.2A:15-1 is amended to read as follows:

37        2A:15-1. Every person **of full age and sound mind** who has  
38 reached the age of majority pursuant to section 3 of P.L.1972, c.81  
39 (C.9:17B-3) and has the mental capacity may prosecute or defend  
40 any action in any court, in person or through another duly admitted  
41 to the practice of law in this **state** State.

42 (cf: N.J.S.2A:15-1)

43

44        5. N.J.S.2A:16-7 is amended to read as follows:

45        2A:16-7. When a judgment of the **superior court shall be**  
46 Superior Court is entered for a conveyance, release, or acquittance

1 of real estate or an interest therein, and the party against whom the  
2 judgment ~~【shall be】~~ is entered ~~【shall not】~~ has failed to comply  
3 ~~【therewith】~~ by the time ~~【appointed】~~ specified in the judgment, or  
4 within 15 days after entry of the judgment if no time ~~【be~~  
5 ~~appointed】~~ is specified therein, the judgment shall ~~【be considered~~  
6 ~~and taken, in all courts of the state to】~~ have the same operation and  
7 effect in all courts ~~【, and be available】~~ as if the conveyance,  
8 release, or acquittance had been executed ~~【conformably to】~~ in  
9 conformance with the judgment, ~~【and this】~~ notwithstanding any  
10 disability of ~~【such】~~ the party ~~【by infancy, lunacy, coverture】~~  
11 because of not having reached the age of majority pursuant to  
12 section 3 of P.L.1972, c.81 (C.9:17B-3), mental incapacity, or  
13 otherwise.

14 (cf: N.J.S.2A:16-7)

15

16 6. N.J.S.2A:16-55 is amended to read as follows:

17 2A:16-55. A person interested as or through an executor,  
18 administrator, trustee, guardian, receiver, assignee for the benefit of  
19 creditors, or other fiduciary, creditor, devisee, legatee, heir, next of  
20 kin, or cestui que trust, in the administration of a trust or the estate  
21 of a decedent, ~~【an infant, lunatic,】~~ a minor, a person who is  
22 mentally incapacitated, a person who is insolvent, or other person,  
23 may have a declaration of rights or legal relations in respect thereto,  
24 to:

25 a. Ascertain any class of creditors, devisees, legatees, heirs, next  
26 of kin, or others; or

27 b. Direct the executor, administrator, trustee, guardian, receiver,  
28 assignee for the benefit of creditors, or other fiduciary to do or  
29 abstain from doing any particular act in his fiduciary capacity; or

30 c. Determine any question arising in the administration of the  
31 estate, trust, or guardianship, including the construction of wills and  
32 other writings.

33 (cf: N.J.S.2A:16-55)

34

35 7. N.J.S.2A:48-2 is amended to read as follows:

36 2A:48-2. No action under this article shall be instituted unless  
37 commenced within ~~【3】~~ three months after the loss of or injury to  
38 the property. If any person entitled to such an action is, at the time  
39 ~~【of any such cause of】~~ the action ~~【accruing, under the age of 21~~  
40 ~~years or insane, he】~~ accrues, under the age of 18 or a person who  
41 has a mental disability that prevents the person from understanding  
42 his legal rights or commencing a legal action, the person may  
43 commence ~~【such】~~ the action within ~~【3】~~ three years after ~~【his~~  
44 ~~coming to or being of full age or of sane mind】~~ reaching majority or  
45 having the mental capacity to pursue the person's lawful rights.

46 (cf: N.J.S.2A:48-2)

1 8. N.J.S.2A:62-8 is amended to read as follows:

2 2A:62-8. If a defendant was, either at the time of the entry of a  
3 default against **【him】** the defendant or at the time of the entry of the  
4 judgment, **【an infant】** a minor or an **【incompetent】** incapacitated  
5 person, **【he】** the defendant, or **【his】** the defendant's heirs, may,  
6 unless **【he】** the defendant was represented in the action by a  
7 guardian or a guardian ad litem **【appearing for him】**, at any time  
8 within **【2】** two years after the termination of **【his】** the defendant's  
9 disability, appear in the action and apply for relief from the  
10 judgment.

11 (cf: N.J.S.2A:62-8)

12

13 9. N.J.S.2A:62-10 is amended to read as follows:

14 2A:62-10 If the title to the lands which is the subject of the  
15 judgment sought to be opened pursuant to **【sections】** N.J.S.2A:62-8  
16 and N.J.S.2A:62-9 **【of this title】**, has, by **【such】** the judgment or in  
17 consequence thereof, been conveyed to a purchaser for value or  
18 mortgaged to a mortgagee for value, the **【same】** title shall not be  
19 affected by either the opening or vacation of the judgment. The  
20 vacation of the judgment shall operate only against the plaintiff  
21 named in the judgment, **【his】** the plaintiff's heirs, executors, and  
22 administrators, to compel compensation to the **【infant】** minor, or  
23 **【incompetent】** incapacitated person to the extent of the value of  
24 **【his】** the plaintiff's interest in the affected **【lands】** real property at  
25 the time the **【same were】** property was so conveyed or mortgaged.

26 (cf: N.J.S.2A:62-10)

27

28 10. N.J.S.2A:62-19 is amended to read as follows:

29 2A:62-19. The final determination and judgment in an action  
30 authorized by **【section】** N.J.S.2A:62-17 **【of this title】** shall fix and  
31 settle the rights of all the parties in **【said】** the estate in remainder in  
32 **【said】** the lands or in **【said】** the remainder interest in **【said】** the  
33 personalty, and **【the same】** shall be binding and conclusive on all  
34 the parties to the action; but if any defendant to **【such】** the suit  
35 **【shall be】** is either at the time of the entry of a default or of  
36 judgment against **【him】** the defendant, **【an infant】** a minor or an  
37 **【incompetent】** incapacitated person, **【such】** the defendant, **【his】**  
38 the defendant's heirs or assigns may, unless **【he】** the defendant was  
39 represented in the action by a guardian or a guardian ad litem  
40 **【appearing for him】**, at any time within **【2】** two years after the  
41 termination of **【such】** the disability, appear in **【such】** the action  
42 and apply for relief from the judgment.

43 (cf: N.J.S.2A-62-19)

44

45 11. N.J.S.2A:67-13 is amended to read as follows:

1 2A:67-13. Except as provided in **[section]** N.J.S.2A:67-14 **[of**  
2 this title, any] a person [hereinafter specified] may prosecute a  
3 writ of habeas corpus, **[according to the provisions of]** in  
4 accordance with this chapter, to inquire into the cause of **[his]** the  
5 person's imprisonment or restraint, if the person is:

6 a. **[Any person]** committed, detained, confined, or restrained of  
7 **[his]** liberty, within this **[state]** State, for **[any]** a criminal or  
8 supposed criminal matter;

9 b. **[Any person]** in custody by virtue of civil process issued out  
10 of **[any]** a court in this [state] State;

11 c. **[Any person]** committed, detained, confined, or restrained of  
12 **[his]** liberty, within this **[state]** State, under any pretense  
13 **[whatsoever];**

14 d. **[Any person]** in confinement on a charge of a criminal  
15 offense, which is of a bailable nature, for the purpose of **[putting in**  
16 such] posting bail; or

17 e. **[Any person]** confined in **[any hospital for the insane, within**  
18 this state] a psychiatric facility, for the purpose of determining **[his**  
19 sanity or insanity;] whether the person is in need of commitment to  
20 treatment.

21 f. **[Any person committed to any institution of this state,**  
22 pursuant to law, but not for a fixed period of time, for the purpose  
23 of determining whether the refusal of the chief executive officer  
24 thereof to discharge him therefrom is justified;] (Deleted by  
25 amendment, P.L. , c. ) (pending before the Legislature as this  
26 bill)

27 g. **[Any person who has left any charitable institution of this**  
28 state without having been finally discharged therefrom pursuant to  
29 law and who was committed or admitted to such institution,  
30 pursuant to law, for a permanent or determinable period of time, for  
31 the purpose of determining whether such person should be released  
32 from the commitment;] (Deleted by amendment, P.L. , c. )  
33 (pending before the Legislature as this bill)

34 h. **[A superintendent or chief executive officer of any charitable**  
35 institution of this state, for the purpose of obtaining the release from  
36 custody or restraint of a person specified in subsection g. of this  
37 section and his return to the custody of such institution.] (Deleted  
38 by amendment, P.L. , c. ) (pending before the Legislature as this  
39 bill)

40 If sufficient cause appears, the complaint may be filed and the  
41 writ may be prosecuted by another on behalf of the person entitled  
42 to prosecute the writ.

43 (cf: N.J.S.2A:67-13)

44

45 12. N.J.S.2A:67-27 is amended to read as follows:

1       2A:67-27. When the writ is returned, the court may hold the  
2 hearing immediately, unless the validity of a detention on any civil  
3 process, or the **【sanity or insanity】** mental capacity of the party is to  
4 be determined, and may, in any case, set a date for the hearing,  
5 which shall be not more than **【5】** five days after the return of the  
6 writ unless for good cause additional time is allowed.

7       Notice of the time and place set for a later hearing shall be  
8 served at least **【2】** two days **【prior thereto】** before the hearing or  
9 **【at such】** earlier **【time】**, as the court may order, by the applicant  
10 upon the defendant, and (a) if the party is in custody on any  
11 criminal matter, upon the county prosecutor of the county  
12 **【wherein】** in which the alleged offense was committed, or (b) if the  
13 party is in custody on any civil process, upon each person having an  
14 interest in continuing the confinement or restraint or upon **【his】** the  
15 party's attorney, or (c) if the party is in custody of any **【hospital for**  
16 **the insane】** psychiatric facility or other institution, **【service shall be**  
17 **made】** upon the person or persons **【upon】** whose application **【he】**  
18 was **【committed】** the basis for commitment to the **【hospital】**  
19 facility or institution, and upon the medical director or other head  
20 officer of the **【hospital】** facility or institution.

21 (cf: N.J.S.2A:67-27)

22  
23       13. N.J.S.2A:67-28 is amended to read as follows:

24       2A:67-28. In all cases in which the **【sanity or insanity】** mental  
25 capacity of the party is to be determined, the testimony shall be  
26 taken orally and the judge may hear the matter without a jury or  
27 may direct that the action be tried by a jury called from the general  
28 panel or, if **【such a jury is】** not available, by a jury specially  
29 summoned as in other actions.

30       In all other cases, the judge may hear the matter summarily on  
31 the complaint, return and answer to the return, **【if any,】** or **【may】**  
32 require that testimony be offered orally **【as in other actions】** and,  
33 on its own motion, may summon witnesses and require any person  
34 to produce **【any】** documents, records, or other writings.

35       In **【any】** a proceeding under subsection d. of **【section】**  
36 N.J.S.2A:67-13 **【of this title】**, the judge may take testimony  
37 concerning the truth of **【the affidavit or】** affidavits and proofs upon  
38 which the order for process**【,** under which the defendant therein is  
39 held,**】** was made and **【said】** process issued.

40 (cf: N.J.S.2A:67-28)

41  
42       14. N.J.S.2A:67-29 is amended to read as follows:

43       2A:67-29. In any proceeding under subsections a., b., or c. of  
44 **【section】** N.J.S.2A:67-13 **【of this title】**, if no cause is shown for  
45 the imprisonment or restraint or for the continuation thereof, the  
46 judge shall discharge the party from the confinement or restraint



1 **【under which he is held】**. If the party is not entitled to a discharge  
2 and is not bailed, the party shall be remanded by the judge **【shall**  
3 **remand him】** to the custody or **【place him】** placed under the  
4 restraint from which **【he was】** the party was taken, **【if the person**  
5 **under whose custody he was is legally entitled thereto, and if not so**  
6 **entitled, such party shall be committed by】** so long as custody or  
7 restraint is lawful. If the custody or restraint is not lawful, the  
8 judge shall commit the party to the custody of **【such other】** the  
9 officer or person **【who by law is】** lawfully entitled thereto.

10 In any proceedings under subsections a., b., c., or d. of **【section】**  
11 N.J.S.2A:67-13 **【of this title】**, if it appears that the **【prisoner】**  
12 person is entitled to be bailed, the judge shall **【forthwith】** discharge  
13 the **【prisoner from his imprisonment】** person immediately, upon  
14 taking **【his】** a secured or bonded recognizance in **【such sum and**  
15 **with such surety or sureties】** an amount as the judge may approve  
16 for **【his】** the person's appearance, as the circumstances may  
17 require, and the judge shall then certify the writ with the return and  
18 the recognizance to the court where the appearance is to be made.

19 In any proceeding under subsection d. of **【section】** N.J.S.2A:67-  
20 13**【of this title】**, the judge shall discharge the party in custody if the  
21 process was improperly or improvidently issued **【or should not**  
22 **have been issued against such party】**.

23 In any proceeding under subsection e. of **【section】** N.J.S.2A:67-  
24 13 **【of this title】**, the **【inmate】** person shall not be discharged  
25 unless **【he is】** found not to be **【sane】** dangerous to self or  
26 dangerous to others or to property, either by the judge, if the  
27 hearing is held without a jury, or by **【the】** unanimous verdict of the  
28 jury.

29 **【In any proceeding under subsection f. of section 2A:67-13 of**  
30 **this title, the inmate shall not be discharged from the commitment**  
31 **unless the judge finds he is not afflicted as stated in the order of**  
32 **commitment.**

33 In any proceeding under subsection g. or subsection h. of section  
34 2A:67-13 of this title, the judge, in his discretion, may discharge the  
35 person committed from the commitment, or if such person is under  
36 confinement or restraint, release him therefrom and order his return  
37 to the institution to which he was committed or admitted, depending  
38 upon the best interests of such person and his parents, guardians or  
39 custodians. **】**

40 No person shall be entitled to a discharge because of any  
41 informality or insufficiency in the original arrest or commitment.

42 (cf: N.J.S.2A:67-29)

43

44 15. N.J.S.2A:81-2 is amended to read as follows:

1        2A:81-2. **【When 1 party to any】** In a civil action **【is a lunatic**  
2 **suing or defending】** that is commenced or defended by a guardian  
3 on behalf of a person who is mentally incapacitated or **【when 1**  
4 **party sues or is sued in】** by a personal representative **【capacity】** on  
5 behalf of a decedent, any other party who asserts a claim or an  
6 affirmative defense against **【such lunatic】** the person who is  
7 mentally incapacitated or against the personal representative, that is  
8 supported by oral testimony of a promise, statement, or act of the  
9 **【lunatic while of sound mind】** person who is mentally incapacitated  
10 before the onset of mental incapacity, or of the decedent, shall be  
11 required to establish the same by clear and convincing proof.  
12 (cf: P.L.1960, c.52, s.45)

13  
14        16. Section 20 of P.L.1960, c.52 (C.2A:84A-20) is amended to  
15 read as follows:

16        21. Rule 26.

17        (1) General rule. Subject to Rule 37 and except as otherwise  
18 provided by paragraph 2 of this rule communications between  
19 lawyer and his client in the course of that relationship and in  
20 professional confidence, are privileged, and a client has a privilege  
21 (a) to refuse to disclose any such communication, and (b) to prevent  
22 his lawyer from disclosing it, and (c) to prevent any other witness  
23 from disclosing such communication if it came to the knowledge of  
24 such witness (i) in the course of its transmittal between the client  
25 and the lawyer, or (ii) in a manner not reasonably to be anticipated,  
26 or (iii) as a result of a breach of the lawyer-client relationship, or  
27 (iv) in the course of a recognized confidential or privileged  
28 communication between the client and such witness. The privilege  
29 shall be claimed by the lawyer unless otherwise instructed by the  
30 client or his representative; the privilege may be claimed by the  
31 client in person, or if **【incompetent】** the client is incapacitated or  
32 deceased, by his guardian or personal representative. Where a  
33 corporation or association is the client having the privilege and it  
34 has been dissolved, the privilege may be claimed by its successors,  
35 assigns, or trustees in dissolution.

36        (2) Exceptions. Such privilege shall not extend (a) to a  
37 communication in the course of legal service sought or obtained in  
38 aid of the commission of a crime or a fraud, or (b) to a  
39 communication relevant to an issue between parties all of whom  
40 claim through the client, regardless of whether the respective claims  
41 are by testate or intestate succession or by inter vivos transaction, or  
42 (c) to a communication relevant to an issue of breach of duty by the  
43 lawyer to his client, or by the client to his lawyer. Where 2 or more  
44 persons have employed a lawyer to act for them in common, none  
45 of them can assert such privilege as against the others as to  
46 communications with respect to that matter.

1 (3) Definitions. As used in this rule (a) "client" means a person  
2 or corporation or other association that, directly or through an  
3 authorized representative, consults a lawyer or the lawyer's  
4 representative for the purpose of retaining the lawyer or securing  
5 legal service or advice from him in his professional capacity; and  
6 includes **【an incompetent】** a person who is incapacitated whose  
7 guardian so consults the lawyer or the lawyer's representative **【in】**  
8 on behalf of the 【incompetent】 person who is incapacitated, (b)  
9 "lawyer" means a person authorized, or reasonably believed by the  
10 client to be authorized to practice law in any State or nation the law  
11 of which recognizes a privilege against disclosure of confidential  
12 communications between client and lawyer. A communication  
13 made in the course of the relationship between lawyer and client  
14 shall be presumed to have been made in professional confidence  
15 unless knowingly made within the hearing of some person whose  
16 presence nullified the privilege.  
17 (cf: P.L.1960, c.52, s.20)

18  
19 17. Section 22 of P.L.1960, c.52 (C.2A:84A-22) is amended to  
20 read as follows:

21 22. Rule 28. Marital privilege--Confidential communications.  
22 No person shall disclose any communication made in confidence  
23 between such person and his or her spouse unless both shall consent  
24 to the disclosure or unless the communication is relevant to an issue  
25 in an action between them or in a criminal action or proceeding in  
26 which either spouse consents to the disclosure, or in a criminal  
27 action or proceeding coming within **【Rule 23(2)】** section 17 of  
28 P.L.1960, c.52 (C.2A:84A-17). When a spouse is **【incompetent】**  
29 incapacitated or deceased, consent to the disclosure may be given  
30 for such spouse by the guardian, executor, or administrator. The  
31 requirement for consent shall not terminate with divorce or  
32 separation. A communication between spouses while living  
33 separate and apart under a divorce from bed and board shall not be a  
34 privileged communication.  
35 (cf: P.L.1992, c.142, s.2)

36  
37 18. Section 1 of P.L.1968, c.185 (C.2A:84A-22.1) is amended to  
38 read as follows:

39 1. As used in this act, (a) "patient" means a person who, for the  
40 sole purpose of securing preventive, palliative, or curative  
41 treatment, or a diagnosis preliminary to such treatment, of **【his】** the  
42 patient's physical or mental condition, consults a physician, or  
43 submits to an examination by a physician; (b) "physician" means a  
44 person authorized or reasonably believed by the patient to be  
45 authorized, to practice medicine in the State or jurisdiction in which  
46 the consultation or examination takes place; (c) "holder of the  
47 privilege" means the patient while alive and not under the

1 guardianship or the guardian of the person of **【an incompetent】** a  
2 patient who is incapacitated, or the personal representative of a  
3 deceased patient; (d) "confidential communication between  
4 physician and patient" means such information transmitted between  
5 physician and patient, including information obtained by an  
6 examination of the patient, as is transmitted in confidence and by a  
7 means which, so far as the patient is aware, discloses the  
8 information to no third persons other than those reasonably  
9 necessary for the transmission of the information or the  
10 accomplishment of the purpose for which it is transmitted.

11 (cf: P.L.1968, c.185, s.1)

12

13 19. Section 4 of P.L.1987, c.169 (C.2A:84A-22.15) is amended  
14 to read as follows:

15 4. Subject to Rule 37 of the Rules of Evidence, a victim  
16 counselor has a privilege not to be examined as a witness in any  
17 civil or criminal proceeding with regard to any confidential  
18 communication. The privilege shall be claimed by the counselor  
19 unless otherwise instructed by prior written consent of the victim.  
20 When a victim is **【incompetent】** incapacitated or deceased consent  
21 to disclosure may be given by the guardian, executor, or  
22 administrator except when the guardian, executor, or administrator  
23 is the defendant or has a relationship with the victim such that **【he】**  
24 the guardian, executor, or administrator has an interest in the  
25 outcome of the proceeding. The privilege may be knowingly  
26 waived by a juvenile. In any instance where the juvenile is, in the  
27 opinion of the judge, incapable of knowing consent, the parent or  
28 guardian of the juvenile may waive the privilege on behalf of the  
29 juvenile, provided that the parent or guardian is not the defendant  
30 and does not have a relationship with the defendant such that he has  
31 an interest in the outcome of the proceeding. A victim counselor or  
32 a victim cannot be compelled to provide testimony in any civil or  
33 criminal proceeding that would identify the name, address, location,  
34 or telephone number of a domestic violence shelter or any other  
35 facility that provided temporary emergency shelter to the victim of  
36 the offense or transaction that is the subject of the proceeding  
37 unless the facility is a party to the proceeding.

38 (cf: P.L.1987, c.169, s.4)

39

40 20. Section 4 of P.L.1979, c.484 (C.3A:25-42) is amended to  
41 read as follows:

42 4. A disclaimer on behalf of a decedent, minor, or **【mentally-**  
43 **incompetent】** incapacitated person may be made by the personal  
44 representative of the decedent or the guardian of the estate of the  
45 minor or **【mentally-incompetent】** incapacitated person. Such  
46 disclaimer shall not be effective unless, prior thereto, the personal  
47 representative or guardian has been authorized to disclaim by the

1 court having jurisdiction of the estate of the decedent, minor, or  
2 **【mentally-incompetent】** incapacitated person, after finding that it is  
3 advisable and will not materially prejudice the rights of creditors,  
4 devisees, heirs, or beneficiaries of the decedent, the minor, or  
5 **【mentally-incompetent】** incapacitated person or his creditors, as the  
6 case may be.

7 (cf: P.L.1979, c.484, s.4)

8

9 21. N.J.S.3B:1-2 is amended to read as follows:

10 3B:1-2. "Incapacitated individual" means an individual who is  
11 impaired by reason of mental illness or **【mental deficiency】**  
12 intellectual disability to the extent that **【he】** the individual lacks  
13 sufficient capacity to govern himself and manage his affairs.

14 The term incapacitated individual is also used to designate an  
15 individual who is impaired by reason of physical illness or  
16 disability, chronic use of drugs, chronic alcoholism, or other cause  
17 (except minority) to the extent that **【he】** the individual lacks  
18 sufficient capacity to govern himself and manage **【his】** the  
19 individual's affairs.

20 The terms incapacity and incapacitated **【individual】** refer to the  
21 state or condition of an incapacitated individual as hereinbefore  
22 defined.

23 "Intellectual disability" means a significant subaverage general  
24 intellectual functioning existing concurrently with deficits in  
25 adaptive behavior which are manifested during the development  
26 period.

27 "Issue" of an individual means a descendant as defined in  
28 N.J.S.3B:1-1.

29 "Joint tenants with the right of survivorship" means co-owners of  
30 property held under circumstances that entitle one or more to the  
31 whole of the property on the death of the other or others, but  
32 excludes forms of co-ownership in which the underlying ownership  
33 of each party is in proportion to that party's contribution.

34 "Local administration" means administration by a personal  
35 representative appointed in this State.

36 "Local fiduciary" means any fiduciary who has received letters  
37 in this State and excludes foreign fiduciaries who acquire the power  
38 of local fiduciary pursuant to this title.

39 "Minor" means an individual who is under 18 years of age.

40 "Nonresident decedent" means a decedent who was domiciled in  
41 another jurisdiction at the time of his death.

42 "Parent" means any person entitled to take or who would be  
43 entitled to take if the child, natural or adopted, died without a will,  
44 by intestate succession from the child whose relationship is in  
45 question and excludes any person who is a stepparent, resource  
46 family parent, or grandparent.

1 "Per capita." If a governing instrument requires property to be  
2 distributed "per capita," the property is divided to provide equal  
3 shares for each of the takers, without regard to their shares or the  
4 right of representation.

5 "Payor" means a trustee, insurer, business entity, employer,  
6 government, governmental agency or subdivision, or any other  
7 person authorized or obligated by law or a governing instrument to  
8 make payments.

9 "Person" means an individual or an organization.

10 "Per Stirpes." If a governing instrument requires property to be  
11 distributed "per stirpes," the property is divided into as many equal  
12 shares as there are: (1) surviving children of the designated  
13 ancestor; and (2) deceased children who left surviving descendants.  
14 Each surviving child is allocated one share. The share of each  
15 deceased child with surviving descendants is divided in the same  
16 manner, with subdivision repeating at each succeeding generation  
17 until the property is fully allocated among surviving descendants.

18 "Personal representative" includes executor, administrator,  
19 successor personal representative, special administrator, and  
20 persons who perform substantially the same function under the law  
21 governing their status. "General personal representative" excludes  
22 special administrator.

23 "Representation; Per Capita at Each Generation." If an applicable  
24 statute or a governing instrument requires property to be distributed  
25 "by representation" or "per capita at each generation," the property  
26 is divided into as many equal shares as there are: (1) surviving  
27 descendants in the generation nearest to the designated ancestor  
28 which contains one or more surviving descendants; and (2)  
29 deceased descendants in the same generation who left surviving  
30 descendants, if any. Each surviving descendant in the nearest  
31 generation is allocated one share. The remaining shares, if any, are  
32 combined and then divided in the same manner among the surviving  
33 descendants of the deceased descendants, as if the surviving  
34 descendants who were allocated a share and their surviving  
35 descendants had predeceased the designated ancestor.

36 "Resident creditor" means a person domiciled in, or doing  
37 business in this State, who is, or could be, a claimant against an  
38 estate.

39 "Security" includes any note, stock, treasury stock, bond,  
40 mortgage, financing statement, debenture, evidence of indebtedness,  
41 certificate of interest or participation in an oil, gas, or mining title  
42 or lease or in payments out of production under the title or lease,  
43 collateral, trust certificate, transferable share, voting trust certificate  
44 or, in general, any interest or instrument commonly known as a  
45 security or as a security interest or any certificate of interest or  
46 participation, any temporary or interim certificate, receipt or  
47 certificate of deposit for, or any warrant or right to subscribe to or  
48 purchase, any of the foregoing.

1 "Stepchild" means a child of the surviving, deceased, or former  
2 spouse who is not a child of the decedent.

3 "Successor personal representative" means a personal  
4 representative, other than a special administrator, who is appointed  
5 to succeed a previously appointed personal representative.

6 "Successors" means those persons, other than creditors, who are  
7 entitled to real and personal property of a decedent under **[his]** a  
8 decedent's will or the laws governing intestate succession.

9 "Testamentary trustee" means a trustee designated by will or  
10 appointed to exercise a trust created by will.

11 "Testator" includes an individual and means male or female.

12 "Trust" includes any express trust, private or charitable, with  
13 additions thereto, wherever and however created. It also includes a  
14 trust created by judgment under which the trust is to be  
15 administered in the manner of an express trust. "Trust" excludes  
16 other constructive trusts, and it excludes resulting trusts,  
17 guardianships, personal representatives, trust accounts created  
18 under the "Multiple-party Deposit Account Act," P.L.1979, c.491  
19 (C.17:16I-1 et seq.), gifts to minors under the "New Jersey Uniform  
20 Gifts to Minors Act," P.L.1963, c.177 (C.46:38-13 et seq.), or the  
21 "New Jersey Uniform Transfers to Minors Act," R.S.46:38A-1 et  
22 seq., business trusts providing for certificates to be issued to  
23 beneficiaries, common trusts, security arrangements, liquidation  
24 trusts, and trusts for the primary purpose of paying debts, dividends,  
25 interest, salaries, wages, profits, pensions or employee benefits of  
26 any kind, and any arrangement under which a person is nominee or  
27 escrowee for another.

28 "Trustee" includes an original, additional or successor trustee,  
29 whether or not appointed or confirmed by court.

30 "Ward" means an individual for whom a guardian is appointed or  
31 an individual under the protection of the court.

32 "Will" means the last will and testament of a testator or testatrix  
33 and includes any codicil and any testamentary instrument that  
34 merely appoints an executor, revokes or revises another will,  
35 nominates a guardian, or expressly excludes or limits the right of a  
36 person or class to succeed to property of the decedent passing by  
37 intestate succession.

38 (cf: P.L.2005, c.160, s.1)

39

40 22. N.J.S.3B:11-5 is amended to read as follows:

41 3B:11-5. When a trustee appointed by a will probated in the  
42 surrogate's court of any county or a trustee appointed under a trust  
43 inter vivos as to real or personal property situate in any county fails  
44 or refuses to act or dies before the execution or completion of the  
45 trust **[committed to him]**, or absconds or removes from this State,  
46 or is adjudicated **[a mental incompetent]** an incapacitated  
47 individual or becomes in any manner legally incapable of executing  
48 the trust, the Superior Court may remove the trustee**[**, if he be

1 alive,] and appoint a suitable person or persons to execute the trust,  
2 and the trustee or trustees so appointed shall be entitled to the trust  
3 estate as fully and in the same manner as the original trustee was  
4 and shall have all the power and discretion of the original trustee.  
5 (cf: P.L.1981, c.405, s.3B:11-5)

6  
7 23. Section 3 of P.L.1985, c.424 (C.3B:11-21) is amended to  
8 read as follows:

9 3. This act shall be liberally construed and applied to promote  
10 its underlying purposes and policies, which are among others to:

11 a. encourage the orderly establishment of community trusts for  
12 the benefit of persons with severe chronic disabilities;

13 b. ensure that community trusts are administered properly and  
14 that the managing boards of the trusts are free from conflicts of  
15 interest, except that an unpaid member of the managing board of a  
16 nonprofit corporation provider shall not be deemed to be in conflict  
17 as a member of the managing board of a trust;

18 c. facilitate sound administration of trust funds for persons with  
19 severe chronic disabilities by allowing family members and others  
20 to pool resources in order to make professional management  
21 investment more efficient;

22 d. provide parents of persons with severe chronic disabilities  
23 peace of mind in knowing that a means exists to ensure that the  
24 interests of their children who have severe chronic disabilities are  
25 properly looked after and managed after the parents die or become  
26 incapacitated;

27 e. help make guardians available for persons with severe  
28 chronic disabilities who are [incompetent] incapacitated, when no  
29 other family member is available for this purpose;

30 f. encourage the availability of private resources to purchase for  
31 persons with severe chronic disabilities goods and services that are  
32 not available through any governmental or charitable program and  
33 to conserve these resources by limiting purchases to those which are  
34 not available from other sources;

35 g. encourage the inclusion, as beneficiaries of community  
36 trusts, of persons who lack resources and whose families are  
37 indigent, in a way that does not diminish the resources available to  
38 other beneficiaries whose families have contributed to the trust; and

39 h. remove the disincentives which discourage parents and  
40 others from setting aside funds for the future protection of persons  
41 with severe chronic disabilities by ensuring that the interests of  
42 beneficiaries in community trusts are not considered assets or  
43 income which would disqualify them from any governmental or  
44 charitable entitlement program with an economic means test.

45 (cf: P.L.1993, c.224, s.1)

46  
47 24. Section 4 of P.L.1985, c.424 (C.3B:11-22) is amended to  
48 read as follows:



1 4. As used in **【this act】** P.L.1985, c.424 (C.3B:11-19 et seq.):

2 a. "Beneficiary" means any person with a severe chronic  
3 disability who has qualified as a member of the community trust  
4 program and who has the right to receive those services and benefits  
5 of the community trust program as provided in **【this act】** P.L.1985,  
6 c.424.

7 b. "Board" means the board of trustees or the group of persons  
8 vested with the management of the business and affairs of a  
9 corporation, formed for the purpose of managing a community trust,  
10 irrespective of the name by which the group is designated.

11 c. "Community trust" means a nonprofit organization which  
12 offers the following services:

13 (1) administration of special trust funds for persons with severe  
14 chronic disabilities;

15 (2) follow-along services;

16 (3) guardianship for persons with severe chronic disabilities  
17 who are **【incompetent】** incapacitated, when no other immediate  
18 family member or friend is available for this purpose; and

19 (4) advice and counsel to persons who have been appointed as  
20 individual guardians of the persons or estates of persons with severe  
21 chronic disabilities.

22 d. "Follow-along services" means those services offered by  
23 community trusts which are designed to insure that the needs of  
24 each beneficiary are being met for as long as may be required and  
25 may include periodic visits to the beneficiary and to the places  
26 where the beneficiary receives services, participation in the  
27 development of individualized plans being made by service  
28 providers for the beneficiary, and other similar services consistent  
29 with the purposes of **【this act】**P.L.1985, c.424.

30 e. "Severe chronic disability" means a physical or mental  
31 impairment which is expected to give rise to a long-term need for  
32 specialized health, social, and other services, and which makes the  
33 person with **【such a disability】** that impairment dependent upon  
34 others for assistance to secure these services.

35 f. "Trustee" means any member of the board of a corporation,  
36 formed for the purpose of managing a community trust, whether  
37 that member is designated as a trustee, director, manager, governor,  
38 or by any other title.

39 g. "Surplus trust funds" means funds accumulated in the trust  
40 from contributions made on behalf of an individual beneficiary,  
41 which, after the death of the beneficiary, are determined by the  
42 board to be in excess of the actual cost of providing services during  
43 the beneficiary's lifetime, including the beneficiary's share of  
44 administrative costs, and of any amounts provided to a  
45 remainderman.

46 (cf: P.L.1993, c.224, s.2)

47

1 25. N.J.S.3B:13-2 is amended to read as follows:

2 3B:13-2. As used in this chapter:

3 a. "Federal agency" means any bureau, office, board, or officer  
4 of the United States by whatever name known, now or hereafter  
5 charged by Congress:

6 (1) With payment of pensions, bounties, and allowances to  
7 veterans of the military service of the United States, their widows,  
8 widowers, children, mothers, and fathers,; or

9 (2) With the administration of the affairs of any of the aforesaid  
10 persons who may be minors or persons who are [mentally  
11 incompetent] incapacitated or [to manage] with the management of  
12 pensions, bounties, and allowances payable to them,; .

13 b. "Military" has reference to the army, navy, marine, air, and  
14 coast guard services,; .

15 c. "Estate" and "income" include only moneys received by the  
16 guardian from a Federal agency and earnings, interest, and profits  
17 derived therefrom,; .

18 d. "Benefits" means moneys payable by the United States to the  
19 aforesaid persons or their guardians through a Federal agency,; .

20 e. "Chief officer" means an officer of a Federal agency, charged  
21 by the laws of the United States with the particular duty in  
22 connection with which the term is used,; .

23 f. "Ward" means a beneficiary of a Federal agency,; .

24 g. "Guardian" means a person acting as fiduciary for a ward.

25 (cf: P.L.1981, c.405, s.3B:13-2)

26

27 26. N.J.S.3B:13-6 is amended to read as follows:

28 3B:13-6. For the purpose of appointing a guardian pursuant to  
29 this chapter, the [mental incompetency] incapacity of a beneficiary  
30 of a Federal agency shall be determined by the Superior Court.

31 (cf: P.L.1981, c.405, s.3B:13-6)

32

33 27. N.J.S.3B:13-7 is amended to read as follows:

34 3B:13-7. When, pursuant to any law of the United States or  
35 regulation of a Federal agency, the chief officer of the agency  
36 requires, prior to payment of benefits, that a guardian be appointed  
37 for a ward, the appointment for a person who is incapacitated shall  
38 be made in the Superior Court [in the case of a mental  
39 incompetent], and [in] the appointment for a minor shall be made  
40 in the Superior Court or in the surrogate's court [or in the Superior  
41 Court in the case of a minor].

42 (cf: P.L.1981, c.405, s.3B:13-7)

43

44 28. N.J.S.3B:13-8 is amended to read as follows:

1 N.J.S.3B:13-8. Except as provided in this section, no person  
2 shall accept appointment as guardian of a ward if **【he be】** acting as  
3 guardian for five wards.

4 In an action brought by an attorney of a Federal agency,  
5 establishing that a guardian is acting in a fiduciary capacity for  
6 more than five wards, the Superior Court shall require a final  
7 accounting forthwith from the guardian and shall discharge **【him】**  
8 the guardian.

9 The limitation of this section shall not apply where the guardian  
10 is a bank or trust company or a public guardian of **【incompetent】**  
11 veterans who are incapacitated, and an individual may be guardian  
12 of more than five wards if they are all members of the same family.  
13 (cf: P.L.1981, c.405, s.3B:13-8)

14

15 29. N.J.S.3B:13-18 is amended to read as follows:

16 3B:13-18. When **【an incompetent】** a ward for whom a guardian  
17 has been appointed is incapacitated and becomes entitled to  
18 personal property amounting to not more than \$10,000.00 from any  
19 source other than the United States Government, the court may  
20 authorize **【him】** the guardian to receive the personal property for  
21 conservation and administrative care. On payment of any money or  
22 delivery of property to the guardian, a release executed by **【him】**  
23 the guardian to the person or persons paying the money or  
24 delivering the property shall be valid and effective.

25 (cf: P.L.1981, c.405, s.3B:13-18)

26

27 30. N.J.S.3B:13-21 is amended to read as follows:

28 3B:13-21. There may be appointed in each county a person to be  
29 known as "public guardian of **【incompetent】** veterans who are  
30 incapacitated for the county of (naming county)", who shall be  
31 appointed by the Assignment Judge of the Superior Court in the  
32 county. **【He】** The person appointed shall hold office for the term of  
33 **【5】** five years from the date of **【his】** appointment and until **【his】** a  
34 successor is appointed and qualified.

35 (cf: P.L.1981, c.405, s.3B:13-21)

36

37 31. N.J.S.3B:13-22 is amended to read as follows:

38 3B:13-22. Before entering upon the duties of **【his】** office, a  
39 public guardian of **【incompetent】** veterans who are incapacitated  
40 shall execute a bond to the Superior Court in an amount and with  
41 sureties as shall be approved by the Superior Court, conditioned for  
42 the faithful discharge of all duties imposed by law upon **【him】** the  
43 person appointed public guardian.

44 The bond shall be renewed annually and shall, from time to time,  
45 be increased or reduced as the court may direct.

1 The expense of procuring the bond shall be paid by the county  
2 treasurer upon presentation of a proper voucher approved by the  
3 Assignment Judge of the Superior Court in the county.

4 (cf: P.L.1981, c.405, s.3B:13-22)

5  
6 32. N.J.S.3B:13-23 is amended to read as follows:

7 3B:13-23. A public guardian of **【incompetent】** veterans who are  
8 incapacitated shall receive an annual salary to be fixed by the  
9 Assignment Judge of the Superior Court of the county for which the  
10 guardian is appointed, with the approval of the board of freeholders  
11 or governing body of the county.

12 The salary shall be paid by the county treasurer in semimonthly  
13 payments and shall be in lieu of all other charges, compensation,  
14 and commissions. A guardian shall not accept any other money  
15 whatsoever by way of fee, compensation, gratuity, or present for  
16 any **【of his】** services provided by the guardian.

17 (cf: P.L.1981, c.405, s.3B:13-23)

18  
19 33. N.J.S.3B:13-24 is amended to read as follows:

20 3B:13-24. The public guardian of **【incompetent】** veterans who  
21 are incapacitated shall, in each county, assist, supervise, advise, and  
22 otherwise aid the duly appointed guardians of **【incompetent】** these  
23 veterans and give help as may be necessary in preparing and  
24 drawing papers and documents, and also help them to work in  
25 conjunction with the United States **【Veterans' Administration】**  
26 Department of Veterans Affairs, so that their wards may be fully  
27 protected.

28 (cf: P.L.1981, c.405, s.3B:13-24)

29  
30 34. N.J.S.3B:13-25 is amended to read as follows:

31 3B:13-25. The public guardian of **【incompetent】** veterans who  
32 are incapacitated shall be subject to discharge or removal, by the  
33 court, on the grounds and in the manner in which other guardians of  
34 **【mental incompetents】** persons who are incapacitated are  
35 discharged or removed.

36 (cf: P.L.1981, c.405, s.3B:13-25)

37  
38 35. N.J.S.3B:13-26 is amended to read as follows:

39 3B:13-26. Where an action is brought in the Superior Court for  
40 the appointment of a guardian for a person who, while in the  
41 military, naval, marine, air, or coast guard service of the United  
42 States, or after discharge therefrom, is **【or shall have been】**  
43 determined to be **【mentally incompetent】** incapacitated, whether or  
44 not **【he is or shall have been】** committed or confined to an  
45 institution for the care of persons who are **【mentally incompetent**  
46 **persons】** incapacitated, and the heirs of the person are unwilling,  
47 unable, or unqualified for the appointment, or **【in case it shall**

1 appear to the court that **】** if the best interests of the person require it,  
2 the Superior Court may appoint the public guardian of the county in  
3 which the person resides as **【his】** guardian of the person.

4 (cf: P.L.1981, c.405, s.3B:13-26)

5  
6 36. N.J.S.3B:13-27 is amended to read as follows:

7 3B:13-27. The public guardian of **【incompetent】** veterans who  
8 are incapacitated shall have, in respect of any veteran and the estate  
9 of any veteran for whom **【he has been】** the public guardian is  
10 appointed **【guardian】**, the same power and authority as any other  
11 duly appointed guardian of a **【mental incompetent】** person who is  
12 incapacitated.

13 (cf: P.L.1981, c.405, s.3B:13-27)

14  
15 37. N.J.S.3B:13-28 is amended to read as follows:

16 3B:13-28. The public guardian shall settle **【his】** accounts in  
17 each estate in which **【he has been】** the guardian is appointed  
18 **【guardian】** at the times and in the same manner as other guardians  
19 of **【mental incompetents】** persons who are incapacitated.

20 (cf: P.L.1981, c.405, s.3B:13-28)

21  
22 38. N.J.S.3B:13-29 is amended to read as follows:

23 3B:13-29. Upon the termination of a guardianship, by death of  
24 **【his】** the ward or otherwise, the public guardian shall settle **【his】**  
25 the account **【as guardian】** in the same manner as other guardians of  
26 **【mental incompetents】** persons who are incapacitated.

27 (cf: P.L.1981, c.405, s.3B:13-29)

28  
29 39. N.J.S.3B:13-31 is amended to read as follows:

30 3B:13-31. The public guardian of **【incompetent】** veterans who  
31 are incapacitated may, when authorized by the Superior Court,  
32 employ counsel to represent **【him】** the public guardian.

33 The compensation of counsel shall be fixed by the court and paid  
34 from moneys in the guardian's **【hands】** control belonging to the  
35 estate involved in litigation.

36 (cf: P.L.1981, c.405, s.3B:13-31)

37  
38 40. N.J.S.3B:13A-1 is amended to read as follows:

39 3B:13A-1. As used in this chapter:

40 a. "Conservatee" means a person who has not been **【judicially**  
41 **declared incompetent】** adjudicated incapacitated but who by reason  
42 of advanced age, illness, or physical infirmity, is unable to care for  
43 or manage **【his】** property or has become unable to provide **【for**  
44 **himself】** self-support or support for others **【dependent】** who  
45 depend upon **【him for】** that support【;】.

1       b. "Conservator" means a person appointed by the court to  
2 manage the estate of a conservatee.

3 (cf: P.L.1983, c.192, s.3B:13A-1)

4

5       41. N.J.S.3B:13A-16 is amended to read as follows:

6       3B:13A-16. The appointment of a conservator shall not:

7       a. Be evidence of the **【competency】** capacity or **【incompetency】**  
8 incapacity of a conservatee; or

9       b. Transfer title of the conservatee's real and personal property  
10 to the conservator; or

11       c. Deprive or modify any civil right of the conservatee,  
12 including but not limited to civil service status and appointment or  
13 rights relating to the granting, forfeiture, or denial of a license,  
14 permit, privilege, or benefit pursuant to any law.

15 (cf: P.L.1983, c.192, s.3B:13A-16)

16

17       42. N.J.S.3B:13A-34 is amended to read as follows:

18       3B:13A-34. A conservatorship shall terminate upon the death of  
19 the conservatee or upon **【his having been adjudicated】** adjudication  
20 of the conservatee to be **【incompetent】** incapacitated as provided by  
21 law, but the termination shall not affect the conservator's liability  
22 for prior acts nor **【his】** obligation to account funds and property of  
23 the conservatee.

24 (cf: P.L.1983, c.192, s.3B:13A-34)

25

26       43. N.J.S.3B:13A-36 is amended to read as follows:

27       3B:13A-36. A conservator shall be compensated for **【his】**  
28 services in the same manner as a guardian for a minor or **【mental**  
29 **incompetent】** for a person who is incapacitated.

30 (cf: P.L.1983, c.192, s.3B:13A-36)

31

32       44. N.J.S.3B:14-21 is amended to read as follows:

33       3B:14-21. The court may remove a fiduciary from office when  
34 the fiduciary:

35       a. After due notice of an order or judgment of the court so  
36 directing, **【he】** neglects or refuses, within the time fixed by the  
37 court, to file an inventory, render an account, or give security or  
38 additional security;

39       b. After due notice of any other order or judgment of the court  
40 made under its proper authority, **【he】** neglects or refuses to perform  
41 or obey the order or judgment within the time fixed by the court;  
42 **【or】**

43       c. **【He has embezzled, wasted or misapplied】** Embezzles,  
44 wastes, or misapplies any part of the estate **【committed to his**  
45 **custody】** for which the fiduciary is responsible, or **【has abused】**

- 1 abuses the trust and confidence reposed in **【him】** the fiduciary;  
2 **【or】**
- 3 d. **【He has removed from the state or does not reside therein】**  
4 No longer resides nor has an office in the State and neglects or  
5 refuses to proceed with the administration of the estate and perform  
6 the duties **【and trust devolving upon him】** required; **【or】**
- 7 e. **【He is of unsound mind or mentally】** Is incapacitated for the  
8 transaction of business; or
- 9 f. **【One of two or more fiduciaries has neglected or refused】**  
10 Neglects or refuses, as one of two or more fiduciaries, to perform  
11 **【his】** the required duties or to join with the other fiduciary or  
12 fiduciaries in the administration of the estate **【committed to their**  
13 care】 for which they are responsible whereby the proper  
14 administration and settlement of the estate is or may be hindered or  
15 prevented.  
16 (cf: P.L.1981, c.405, s.3B:14-21)

17  
18 45. N.J.S.3B:14-23 is amended to read as follows:

19 3B:14-23. Powers. In the absence of contrary or limiting  
20 provisions in the judgment or order appointing a fiduciary, in the  
21 will, deed, or other instrument or in a subsequent court judgment or  
22 order, every fiduciary shall, in the exercise of good faith and  
23 reasonable discretion, have the power:

24 a. To accept additions to any estate or trust from sources other  
25 than the estate of the decedent, the minor, **【mental incompetent】** the  
26 person who is incapacitated, or the settlor of a trust;

27 b. To acquire the remaining undivided interest in an estate or  
28 trust asset in which the fiduciary, in **【his】** a fiduciary capacity,  
29 holds an undivided interest;

30 c. To invest and reinvest assets of the estate or trust under the  
31 provisions of the will, deed, or other instrument or as otherwise  
32 provided by law and to exchange assets for investments and other  
33 property upon terms as may seem advisable to the fiduciary;

34 d. To effect and keep in force fire, rent, title, liability, casualty,  
35 or other insurance to protect the property of the estate or trust and to  
36 protect the fiduciary;

37 e. With respect to any property or any interest therein owned by  
38 an estate or trust, including any real property belonging to the  
39 fiduciary's decedent at death, except where the property or any  
40 interest therein is specifically disposed of:

41 (1) To take possession of and manage the property and to collect  
42 the rents therefrom, and pay taxes, mortgage interest, and other  
43 charges against the property;

44 (2) To sell the property at public or private sale, and on terms as  
45 in the opinion of the fiduciary shall be most advantageous to those  
46 interested therein;

- 1       (3) With respect to fiduciaries other than a trustee, to lease the  
2 property for a term not exceeding three years, and in the case of a  
3 trustee to lease the property for a term not exceeding 10 years, even  
4 though the term extends beyond the duration of the trust, and in  
5 either case including the right to explore for and remove mineral or  
6 other natural resources, and in connection with mineral leases to  
7 enter into pooling and unitization agreements;
- 8       (4) To mortgage the property;
- 9       (5) To grant easements to adjoining owners and utilities;
- 10       (6) A fiduciary acting under a will may exercise any of the  
11 powers granted by this subsection e. notwithstanding the effects  
12 upon the will of the birth of a child after its execution;
- 13       f. To make repairs to the property of the estate or trust for the  
14 purpose of preserving the property or rendering it rentable or  
15 saleable;
- 16       g. To grant options for the sale of any property of the estate or  
17 trust for a period not exceeding six months;
- 18       h. With respect to any mortgage held by the estate or trust to  
19 continue it upon and after maturity, with or without renewal or  
20 extension, upon terms as may seem advisable to the fiduciary and to  
21 foreclose, as an incident to collection of any bond or note, any  
22 mortgage and purchase the mortgaged property or acquire the  
23 property by deed from the mortgagor in lieu of foreclosure;
- 24       i. In the case of the survivor or survivors of two or more  
25 fiduciaries to administer the estate or trust without the appointment  
26 of a successor to the fiduciary or fiduciaries who have ceased to act  
27 and to exercise or perform all of the powers given unless contrary to  
28 the express provision of the will, deed, or other instrument;
- 29       j. As a new, alternate, successor, substitute, or additional  
30 fiduciary or fiduciaries, to have or succeed to all of the powers,  
31 duties, and discretion of the original fiduciary or fiduciaries, with  
32 respect to the estate or trust, as were given to the original fiduciary  
33 or fiduciaries named in or appointed by a will, deed, or other  
34 instrument, unless the exercise of the powers, duties, or discretion  
35 of the original fiduciary or fiduciaries is expressly prohibited by the  
36 will, deed, or other instrument to any successor or substitute  
37 fiduciary or fiduciaries;
- 38       k. Where there are three or more fiduciaries qualified to act, to  
39 take any action with respect to the estate or trust which a majority  
40 of the fiduciaries shall determine; a fiduciary who fails to act  
41 through absence or disability, or a dissenting fiduciary who joins in  
42 carrying out the decision of a majority of the fiduciaries if **his** the  
43 dissent is expressed promptly in writing to **his** the cofiduciaries,  
44 shall not be liable for the consequences of any majority decision,  
45 provided that liability for failure to join in administering the trust or  
46 to prevent a breach of trust may not thus be avoided;



- 1       l. To employ and compensate attorneys for services rendered to  
2 the estate or trust or to a fiduciary in the performance of **【his】** the  
3 fiduciary's duties;
- 4       m. To compromise, contest, or otherwise settle any claim in  
5 favor of the estate, trust, or fiduciary or in favor of third persons  
6 and against the estate, trust, or fiduciary, including transfer  
7 inheritance, estate, income, and other taxes;
- 8       n. To vote in person or by proxy, discretionary or otherwise,  
9 shares of stock or other securities held by the estate or trust;
- 10      o. To pay calls, assessments, and any other sums chargeable or  
11 accruing against or on account of shares of stock, bonds,  
12 debentures, or other corporate securities in the **【hands】** control of a  
13 fiduciary, whenever the payments may be legally enforceable  
14 against the fiduciary or any property of the estate or trust or the  
15 fiduciary deems payment expedient and for the best interests of the  
16 estate or trust;
- 17      p. To sell or exercise stock subscription or conversion rights,  
18 participate in foreclosures, reorganizations, consolidations, mergers,  
19 or liquidations, and to consent to corporate sales or leases and  
20 encumbrances, and, in the exercise of those powers, the fiduciary is  
21 authorized to deposit stocks, bonds, or other securities with any  
22 custodian, agent, protective or other similar committee, or trustee  
23 under a voting trust agreement, under terms and conditions  
24 respecting the deposit thereof as the fiduciary may approve;
- 25      q. To execute and deliver agreements, assignments, bills of sale,  
26 contracts, deeds, notes, receipts, and any other instrument necessary  
27 or appropriate for the administration of the estate or trust;
- 28      r. In the case of a trustee:
- 29       (1) To hold two or more trusts or parts of trusts created by the  
30 same instrument, as an undivided whole, without separation as  
31 between the trusts or parts of the trusts, provided that separate trusts  
32 or parts of trusts shall have undivided interests and provided further  
33 that no holding shall defer the vesting of any estate in possession or  
34 otherwise;
- 35       (2) To divide a trust, before or after its initial funding, into two  
36 or more separate trusts, provided that such division will not  
37 materially impair the accomplishment of the trust purposes or the  
38 interests of any beneficiary. Distributions provided for by the  
39 governing instrument may be made from one or more of the  
40 separate trusts;
- 41      s. To distribute in kind any property of the estate or trust as  
42 provided in article 1 of chapter 23 of this **【title】** Title;
- 43      t. To join with the surviving spouse, partner in a civil union, or  
44 domestic partner, the executor of **【his or her】** the decedent's will,  
45 or the administrator of **【his or her】** the decedent's estate in the  
46 execution and filing of a joint income tax return for any period prior  
47 to the death of a decedent for which **【he has not filed a】** no return

1 or **[a]** gift tax return on gifts made by the decedent's surviving  
2 spouse, partner in a civil union, or domestic partner was filed, and  
3 to consent to treat the gifts as being made one-half by the decedent,  
4 for any period prior to a decedent's death, and to pay taxes thereon  
5 as are chargeable to the decedent;

6 u. To acquire or dispose of an asset, including real or personal  
7 property in this State or another state, for cash or on credit, at  
8 public or private sale, and to manage, develop, improve, exchange,  
9 partition, change the character of, or abandon an estate asset;

10 v. To continue any business constituting the whole or any part of  
11 the estate for so long a period of time as the fiduciary may deem  
12 advisable and advantageous for the estate and persons interested  
13 therein;

14 w. In the case of a qualified bank as defined in section 1 of  
15 P.L.1948, c.67 (C.17:9A-1), and an out-of-State bank as defined in  
16 section 1 of P.L.1948, c.67 (C.17:9A-1), which has established a  
17 trust office in this State to purchase, sell, and maintain for any  
18 fiduciary account, securities issued by an investment company  
19 which is operated and maintained in accordance with the  
20 "Investment Company Act of 1940," 15 U.S.C.s.80a-1 et seq., and  
21 for which the qualified bank or out-of-State bank is providing  
22 services as an investment advisor, investment manager, custodian,  
23 or otherwise, including those for which it receives compensation, if:

24 (1) The investment is otherwise in accordance with applicable  
25 fiduciary standards; and

26 (2) The investment is authorized by the agreement or instrument  
27 creating the fiduciary account that gives the qualified bank or out-  
28 of-State bank investment authority, or by court order; or

29 (3) The qualified bank or out-of-State bank provides written  
30 notice not less than annually by prospectus, account statement,  
31 or otherwise, disclosing to any current income beneficiaries of the  
32 trust the services provided by the qualified bank or its affiliate or  
33 out-of-State bank to the investment company, and the rate, formula,  
34 or other method by which compensation paid to the qualified bank  
35 or its affiliate or out-of-State bank is determined and the qualified  
36 bank or out-of-State bank does not receive a written objection from  
37 any current income beneficiary within 30 days after receipt of this  
38 notice. If a written objection is received from any current income  
39 beneficiary pursuant to this paragraph (3), no such investment of  
40 the trust assets of that fiduciary account shall be made or  
41 maintained.

42 Such investment shall not be deemed self-dealing or a fiduciary  
43 conflict; nor shall the fact that other beneficiaries of fiduciary  
44 accounts of the qualified bank or out-of-State bank have similar  
45 investments be deemed to be an improper commingling of assets by  
46 the qualified bank or out-of-State bank.

47 For purposes of this subsection, "fiduciary account" shall include  
48 a trust, estate, agency, or other account in which funds, property, or

1 both, are held by a qualified bank pursuant to section 28 of  
2 P.L.1948, c.67 (C.17:9A-28), or an account for which a qualified  
3 bank or out-of-State bank acts as investment advisor or manager or  
4 an account held by an out-of-State bank as defined in section 1 of  
5 P.L.1948, c. 67 (C.17:9A-1);

6 x. To employ and compensate accountants from the fiduciary  
7 fund for services rendered to the estate or trust or to a fiduciary in  
8 the performance of the fiduciary's duties, including the duty of a  
9 corporate or other fiduciary with respect to the preparation of  
10 accountings, without reduction in commissions due to the fiduciary,  
11 so long as such accountings are not the usual, customary, or routine  
12 services provided by the fiduciary in light of the nature and skill of  
13 the fiduciary. In evaluating the actions of the fiduciary under this  
14 subsection, the court shall consider the size and complexity of the  
15 fiduciary fund, the length of time for which the accounting is  
16 rendered, and the increased risk and responsibilities imposed on  
17 fiduciaries as a result of revisions to laws affecting fiduciaries  
18 including, but not limited to, the "Uniform Principal and Income  
19 Act of 2001," P.L.2001, c.212 (C.3B:19B-1 et seq.) and the  
20 "Prudent Investor Act," P.L.1997, c.26 (C.3B:20-11.1 et seq.)  
21 provided that such revisions of the laws affecting fiduciaries were  
22 enacted after the fiduciary responsibilities under the corresponding  
23 will, deed, or other instrument, or court judgment or order, were  
24 imposed on, and assumed by, the fiduciary. For purposes of this  
25 subsection, "Accountant" means a person who is registered as a  
26 certified public accountant pursuant to the provisions of the  
27 "Accountancy Act of 1997," P.L.1997, c.259 (C.45:2B-42 et seq.),  
28 or an accounting firm which is organized for the practice of public  
29 accounting pursuant to the provisions of the "Accountancy Act of  
30 1997," P.L.1997, c.259 (C.45:2B-42 et seq.) and "The Professional  
31 Service Corporation Act," P.L.1969, c.232 (C.14A:17-1 et seq.);  
32 and

33 y. The powers set forth in this section are in addition to any  
34 other powers granted by law, and by a will, deed, or other  
35 instrument.

36 (cf: P.L.2003, c.33, s.1)

37  
38 46. N.J.S.3B:15-1 is amended to read as follows:

39 3B:15-1. The court or surrogate appointing a fiduciary in any of  
40 the instances enumerated below shall secure faithful performance of  
41 the duties of **his** the office by requiring the fiduciary thereby  
42 authorized to act to furnish bond to the Superior Court in a sum and  
43 with proper conditions and sureties, having due regard to the value  
44 of the estate **in his charge** and the extent of **his** the fiduciary's  
45 authority, as the court shall approve:

46 a. When an appointment is made upon failure of the will, or  
47 other instrument creating or continuing a fiduciary relationship, to  
48 name a fiduciary;

- 1       b. When a person is appointed in the place of the person named  
2 as fiduciary in the will, or other instrument creating or continuing  
3 the fiduciary relationship;
- 4       c. When the office to which the person is appointed is any form  
5 of administration, except: (1) administration ad litem which may be  
6 granted with or without bond; or (2) administration granted to a  
7 surviving spouse where the decedent's entire estate is payable to the  
8 surviving spouse;
- 9       d. When the office to which the person is appointed is any form  
10 of guardianship of a minor or a person who is incapacitated  
11 **【person】**, except as otherwise provided in N.J.S.3B:12-16 or  
12 N.J.S.3B:12-33 with respect to a guardian appointed by will;
- 13       e. When letters are granted to a nonresident executor, except in  
14 cases where the will provides that no security shall be required of  
15 the person named as executor therein;
- 16       f. When an additional or substituted fiduciary is appointed;
- 17       g. When an appointment is made under chapter 26 of this title,  
18 of a fiduciary for the estate or property, or any part thereof, of an  
19 absentee;
- 20       h. When a fiduciary moves from the State, in which case the  
21 court may require **【him】** the fiduciary to give such security as **【it**  
22 **may determine】** the court determines; or
- 23       i. (1) When an appointment is made, regardless of any direction  
24 in a last will and testament relieving a personal representative,  
25 testamentary guardian, or testamentary trustee or their successors  
26 from giving bond, that person shall, before receiving letters or  
27 exercising any authority or control over the property, provide bond  
28 to secure performance of **【his】** the person's duties with respect to  
29 property to which a **【developmentally disabled】** person with a  
30 developmental disability as defined in section 3 of P.L.1985, c.145  
31 (C.30:6D-25) is, or shall be entitled, if:
- 32       (a) the testator has identified that a devisee or beneficiary of  
33 property of the decedent's estate is **【such】** a **【developmentally**  
34 **disabled】** person with a developmental disability; or
- 35       (b) the person seeking appointment has actual knowledge that a  
36 devisee or beneficiary of property of the decedent's estate is **【such】**  
37 a **【developmentally disabled】** person with a developmental  
38 disability.
- 39       (2) No bond shall be required pursuant to paragraph (1) of this  
40 subsection if:
- 41       (a) the court has appointed another person as guardian of the  
42 person or guardian of the estate for the **【developmentally disabled】**  
43 person with a developmental disability;
- 44       (b) the person seeking the appointment is a family member  
45 within the third degree of consanguinity of the **【developmentally**  
46 **disabled】** person with a developmental disability; or

1 (c) the total value of the real and personal assets of the estate or  
2 trust does not exceed \$25,000.

3 (3) A personal representative, testamentary guardian, or  
4 testamentary trustee who is required to provide bond pursuant to  
5 paragraph (1) of this subsection shall file with the Superior Court an  
6 initial inventory and a final accounting of the estate in **[his]** that  
7 person's charge containing a true account of all assets of the estate.  
8 **[Such]** That person shall file an interim accounting every five  
9 years, or a lesser period of time if so ordered by the Superior Court,  
10 in the case of an extended estate or trust administration.

11 (4) A personal representative, testamentary guardian, or  
12 testamentary trustee who is required to provide bond pursuant to  
13 paragraph (1) of this subsection may make application to the court  
14 to waive the bond or reduce the amount of bond for good cause  
15 shown, including the need to preserve assets of the estate.

16 This subsection shall not apply to qualified financial institutions  
17 pursuant to section 30 of P.L.1948, c.67 (C.17:9A-30) or to non-  
18 profit community trusts organized pursuant to P.L.1985, c.424  
19 (C.3B:11-19 et seq.).

20 Nothing contained in this section shall be construed to require a  
21 bond in any case where it is specifically provided by law that a  
22 bond need not be required.

23 (cf: P.L.2010, c.34, s.3)

24

25 47. N.J.S.3B:15-7 is amended to read as follows:

26 3B:15-7. The bond required of a guardian of a minor or **[mental**  
27 **incompetent]** a person who is incapacitated shall be conditioned  
28 substantially as follows:

29 a. To **[well and truly]** administer the ward's estate to the best of  
30 the guardian's ability, and to take proper care of the ward if the  
31 guardian is the guardian of the ward's person;

32 b. To make a just and true account of **[his]** the administration of  
33 the guardianship, and, if required by the court, to settle **[his]** the  
34 accounts therein within the time so required.

35 (cf: P.L.1981, c.405, s.3B:15-7)

36

37 48. Section 1 of P.L.1987, c.28 (C.3B:15-17.1) is amended to  
38 read as follows:

39 1. Where the estate of a minor consists of the proceeds of a  
40 judgment recovered in favor of the minor in any court of this State  
41 and the funds recovered are placed under the control of the county  
42 surrogate, the funds shall be paid over to the person when the  
43 person reaches the age of 18 years, unless the court finds the person  
44 **[incompetent]** to be incapacitated.

45 (cf: P.L.1987, c.28, s.1)

46

47 49. N.J.S.3B:16-8 is amended to read as follows:

1       3B:16-8. Every guardian of the estate of a minor or **mental**  
2 **incompetent** a person who is incapacitated may, and if required by  
3 the court shall, file with the surrogate of the proper county or the  
4 clerk of the Superior Court**[, as the case may be,]** an inventory,  
5 under oath, of all the real and personal property which **has come to**  
6 **his hands** is in the control, possession, or knowledge of the  
7 guardian or **into the hands of** any other person **for him** on the  
8 guardian's behalf. The court shall not require an inventory and  
9 appraisal to be filed until **3** three months have elapsed after the  
10 grant of letters.

11 (cf: P.L.1981, c.405, s.3B:16-8)

12

13       50. N.J.S.3B:17-1 is amended to read as follows:

14       3B:17-1. A fiduciary need not render or settle **his** an account  
15 if **he** the fiduciary files with the court a release or discharge from  
16 the beneficiary, ward, or cestui que trust who **is of full age** has  
17 reached majority and is not **mentally competent** incapacitated.

18       The release or discharge shall be executed and acknowledged as  
19 provided for deeds of real estate to be recorded.

20 (cf: P.L.1981, c.405, s.3B:17-1)

21

22       51. N.J.S.3B:23-21 is amended to read as follows:

23       3B:23-21. Unclaimed estate assets. When a fiduciary states  
24 **his** a final account and there remains in **his hands** the  
25 fiduciary's control a balance, devise, distributive share, dividend, or  
26 sum of money to be paid to a person and the person, or **his** that  
27 person's guardian, if **he be an infant** a minor or **mental**  
28 **incompetent** a person who is incapacitated, fails to claim the  
29 balance, devise, distributive share, dividend, or sum of money  
30 within the period of time set forth in R.S.46:30B-37.1, then the  
31 property shall be disposed of as provided in N.J.S.3B:23-19 if it is  
32 part of an intestate estate or otherwise presumed abandoned and  
33 handled in accordance with the "Uniform Unclaimed Property Act  
34 (1981)," R.S.46:30B-1 et seq.

35 (cf: P.L.2001, c.109, s.3)

36

37       52. N.J.S.3B:23-34 is amended to read as follows:

38       3B:23-34. An action to recover a devise may not be maintained  
39 until:

40       a. The devise becomes due and payable;

41       b. Reasonable demand for payment is made upon the personal  
42 representative; and

43       c. A refunding bond in substantially the form prescribed in  
44 N.J.S.3B:23-26 is tendered to the personal representative by the  
45 devisee, or, if the devisee is a minor or a person who is  
46 incapacitated, by the guardian of **his** the devisee's estate **if the**

1 devisee is an infant or a mental incompetent], and, if [he refuses to  
2 accept] not accepted by the personal representative, the refunding  
3 bond[, ] is filed with the clerk of the court, prior to the  
4 commencement of the action.

5 (cf: P.L.1981, c.405, s.3B:23-34)

6

7 53. N.J.S.3B:23-39 is amended to read as follows:

8 3B:23-39. When a devise charged by will upon real estate is  
9 wholly or in part limited over:

10 a. To [infants, mental incompetents] minors, persons who are  
11 incapacitated, or persons not in esse; or

12 b. To persons who cannot be ascertained until the happening of  
13 an event named in the will; or

14 c. In a manner that the vesting of the devise may be contingent--

15 The Superior Court may, in a summary or other action by the  
16 executor, or a person interested in the real estate, direct the devise  
17 paid into court together with any additional sums as the court may  
18 deem reasonable to cover the expense of investing and taking  
19 charge of the devise. Upon payment into court, the real estate shall  
20 be wholly clear and discharged from the lien created by the will.

21 (cf: P.L.1981, c.405, s.3B:23-39)

22

23 54. Section 1 of P.L.1955, c.232 (C.9:2-13) is amended to read  
24 as follows:

25 1. For the purposes of [this act] P.L.1955, c.232 (C.9:2-13 et  
26 seq.), the following words and phrases, unless otherwise indicated,  
27 shall be deemed to have the following meanings:

28 (a) The phrase "approved agency" means a legally constituted  
29 agency having its principal office within or without this State,  
30 which has been approved, pursuant to law, to place children in New  
31 Jersey for purposes of adoption.

32 (b) The word "child" means any person under 18 years of age.

33 (c) The word "custody" means continuing control and authority  
34 over the person of a child, established by natural parenthood, by  
35 order or judgment of a court of competent jurisdiction, or by written  
36 surrender to and approved agency pursuant to law.

37 (d) The phrase "forsaken parental obligations" means willful and  
38 continuous neglect or failure to perform the natural and regular  
39 obligations of care and support of a child.

40 (e) The phrase "mentally [incompetent]" incapacitated" means  
41 inability to understand and discharge the natural and regular  
42 obligations of care and support of a child by reason of mental  
43 disease, [feebleness of mind, or habitual intemperance] intellectual  
44 disability, or the effects of drug, alcohol, or substance abuse.

45 (f) The word "parent," when not otherwise described by the  
46 context, means a natural parent or parent by previous adoption.

1 (g) The word "may" shall be construed to be permissive and the  
2 word "shall" shall be construed to be mandatory.

3 (cf: P.L.1990, c.26, s.3)

4  
5 55. Section 7 of P.L.1955, c.232 (C.9:2-19) is amended to read  
6 as follows:

7 7. If the court shall determine that custody of the child has been  
8 surrendered as provided in Article II of **【this act】** P.L.1955, c.232  
9 (C.9:2-13 et seq.), the court may declare that the person making  
10 such surrender shall have no further right to custody of the child. If  
11 the court shall determine that a parent of the child is dead, or  
12 mentally **【incompetent】** incapacitated as defined in section 1 of  
13 P.L.1955, c.232 C.9:2-13), or has forsaken parental obligation, the  
14 court may declare that such parent shall have no further right to  
15 custody of the child. If the court shall determine that a custodian or  
16 guardian has been appointed for the child, but that such custodian or  
17 guardian has willfully and continuously neglected or failed to  
18 discharge the responsibilities of such appointment, the court may  
19 declare that such custodian or guardian shall have no further control  
20 and authority over the person of the child.

21 (cf: P.L.1990, c.26, s.4)

22  
23 56. Section 3 of P.L.1972, c.81 (C.9:17B-3) is amended to read  
24 as follows:

25 3. Except **【with respect to the provisions of N.J.S. 2A:14-21,】**  
26 with respect to the provision of services pursuant to the laws  
27 relating to dependent and neglected children, allocated to chapter  
28 4C of Title 30 of the Revised Statutes (C.30:4C-1 to 30:4C-44), to  
29 persons between 18 and 21 years of age who seek to avail  
30 themselves of such services and who are enrolled in a school or  
31 training program below college level or who require a course of  
32 treatment for emotionally, cognitively, or physically disabled  
33 persons, with respect to the right of a court to take any action it  
34 deems appropriate and in the interest of a person under 21 years of  
35 age, or to require a change in action heretofore taken by a court  
36 with respect to a person under 21 years of age, or with respect to the  
37 provisions of the "New Jersey Uniform Gifts to Minors Act"  
38 (P.L.1963, c.177, C.46:38-13 et seq.), or the "New Jersey Uniform  
39 Transfers to Minors Act," R.S. 46:38A-1 et seq., every person 18 or  
40 more years of age shall in all other matters and for all other  
41 purposes be deemed to be an adult and, notwithstanding any other  
42 provision of law to the contrary, shall have the same legal capacity  
43 to act and the same powers and obligations as a person 21 or more  
44 years of age. Except as herein otherwise provided, every act or  
45 action of any such person shall be as valid, binding, and enforceable  
46 by or against such person as if, at the time such act or action was  
47 performed or undertaken, such person was 21 or more years of age  
48 and no act or action by any such person performed or undertaken on



1 or after the effective date of this act shall be subject to  
2 disaffirmance because of minority.

3 (cf: P.L.1987, c.18, s.3)

4

5 57. Section 7 of P.L.1975, c.231 (C.10:4-12) is amended to read  
6 as follows:

7 7. a. Except as provided by subsection b. of this section all  
8 meetings of public bodies shall be open to the public at all times.  
9 Nothing in this act shall be construed to limit the discretion of a  
10 public body to permit, prohibit, or regulate the active participation  
11 of the public at any meeting, except that a municipal governing  
12 body and a board of education shall be required to set aside a  
13 portion of every meeting of the municipal governing body or board  
14 of education, the length of the portion to be determined by the  
15 municipal governing body or board of education, for public  
16 comment on any governmental or school district issue that a  
17 member of the public feels may be of concern to the residents of the  
18 municipality or school district.

19 b. A public body may exclude the public only from that portion  
20 of a meeting at which the public body discusses any:

21 (1) **Any** matter which, by express provision of federal law  
22 **or**, State statute, or rule of court shall be rendered confidential or  
23 excluded from the provisions of subsection a. of this section**.** ;

24 (2) **Any** matter in which the release of information would  
25 impair a right to receive funds from the Government of the United  
26 States**.** ;

27 (3) **Any** material the disclosure of which constitutes an  
28 unwarranted invasion of individual privacy such as any records,  
29 data, reports, recommendations, or other personal material of any  
30 educational, training, social service, medical, health, custodial,  
31 child protection, rehabilitation, legal defense, welfare, housing,  
32 relocation, insurance, and similar program or institution operated by  
33 a public body pertaining to any specific individual admitted to or  
34 served by **such** an institution or program, including but not  
35 limited to, information relative to the individual's personal and  
36 family circumstances, and any material pertaining to admission,  
37 discharge, treatment, progress, or condition of any individual,  
38 unless the individual concerned (or, in the case of a minor or  
39 **incompetent** an incapacitated individual, **his** the individual's  
40 guardian) shall request in writing that the **same** material be  
41 disclosed publicly**.** ;

42 (4) **Any** collective bargaining agreement, or the terms and  
43 conditions which are proposed for inclusion in any collective  
44 bargaining agreement, including the negotiation of the terms and  
45 conditions thereof with employees or representatives of employees  
46 of the public body**.** ;

1 (5) **Any** matter involving the purchase, lease, or acquisition of  
2 real property with public funds, the setting of banking rates, or  
3 investment of public funds, **where** if it could adversely affect the  
4 public interest if discussion of **such** the matters were disclosed~~;~~

5 ;

6 (6) **Any** tactics and techniques utilized in protecting the safety  
7 and property of the public, provided that their disclosure could  
8 impair **such** that protection **Any** or investigations of  
9 violations or possible violations of the law~~;~~

10 (7) **Any** pending or anticipated litigation or contract  
11 negotiation other than in subsection b. (4) herein in which the  
12 public body is, or may become, a party~~;~~

13 **Any** or matters falling within the attorney-client privilege, to  
14 the extent that confidentiality is required in order for the attorney to  
15 exercise his ethical duties as a lawyer~~;~~

16 (8) **Any** matter involving the employment, appointment,  
17 termination of employment, terms and conditions of employment,  
18 evaluation of the performance of, promotion, or disciplining of any  
19 specific prospective public officer or employee or current public  
20 officer or employee employed or appointed by the public body,  
21 unless all the individual employees or appointees whose rights  
22 could be adversely affected request in writing that **such** the  
23 matter or matters be discussed at a public meeting~~;~~ or

24 (9) **Any** deliberations of a public body occurring after a public  
25 hearing that may result in the imposition of a specific civil penalty  
26 upon the responding party or the suspension or loss of a license or  
27 permit belonging to the responding party as a result of an act or  
28 omission for which the responding party bears responsibility.

29 (cf: P.L.2008, c.14, s.1)

30

31 58. N.J.S.12A:3-308 is amended to read as follows:

32 12A:3-308. a. In an action with respect to an instrument, the  
33 authenticity of, and authority to make, each signature on the  
34 instrument is admitted unless specifically denied in the pleadings.  
35 If the validity of a signature is denied in the pleadings, the burden  
36 of establishing validity is on the person claiming validity, but the  
37 signature is presumed to be authentic and authorized unless the  
38 action is to enforce the liability of the purported signer and the  
39 signer is **dead** deceased or **incompetent** incapacitated at the  
40 time of trial of the issue of validity of the signature. If an action to  
41 enforce the instrument is brought against a person as the  
42 undisclosed principal of a person who signed the instrument as a  
43 party to the instrument, the plaintiff has the burden of establishing  
44 that the defendant is liable on the instrument as a represented  
45 person under subsection a. of ~~12A:3-402~~ N.J.S.12A:3-402.

1       b. If the validity of signatures is admitted or proved and there  
2 is compliance with subsection a. of this section, a plaintiff  
3 producing the instrument is entitled to payment if the plaintiff  
4 proves entitlement to enforce the instrument under **[12A:3-301]**  
5 N.J.S.12A:3-301, unless the defendant proves a defense or claim in  
6 recoupment. If a defense or claim in recoupment is proved, the  
7 right to payment of the plaintiff is subject to the defense or claim,  
8 except to the extent the plaintiff proves that the plaintiff has rights  
9 of a holder in due course which are not subject to the defense or  
10 claim.

11 (cf: N.J.S.12A:3-308)

12       59. Section 16 of P.L.1966, c.291 (C.13:1C-16) is amended to  
13 read as follows:

14       16. The board may refuse the application of any applicant for an  
15 examination or, after due notice and public hearing, refuse to issue  
16 a certificate, or revoke any certificate issued by it, if the applicant  
17 for, or holder of, such a certificate**[--]** :

18       (a) has been convicted of an offense involving moral turpitude,  
19 is a drug addict or alcoholic, or is **[mentally incompetent,]**  
20 incapacitated; or

21       (b) advocates the overthrow of the Government of the United  
22 States by force and violence or other unlawful means**[,]** ; or

23       (c) has made any willful statement or impersonated any other  
24 person or permitted or aided any other person to impersonate **[him]**  
25 the applicant or certificate holder in connection with any  
26 application or examination for certification and registration**[,]** ; or

27       (d) has been found to be inefficient in performing the duties of  
28 any position held by **[him]** the person, on the basis of the holding  
29 of which experience qualifications are offered on **[his]** that  
30 person's behalf.

31 (cf: P.L.1966, c.291, s.16)

32

33       60. Section 1 of P.L.1942, c.230 (C.17:4-9.1) is amended to read  
34 as follows:

35       1. **[Whenever a "successor company" has been or may**  
36 **hereafter be]** For purposes of this section, the term "successor  
37 company" includes "successor bank" or "successor savings bank";  
38 and the term "predecessor company" includes "liquidating  
39 company" or "predecessor savings bank."

40       A successor company formed under **[and by virtue of the**  
41 **provisions of section 17:4-9]** R.S.17:4-9, repealed and replaced by  
42 section 16 of P.L.1948, c.67 (C.17:9A-16), and [has] qualified to  
43 act as a fiduciary as provided for **[in section 17:4-41]** by R.S.17:4-  
44 41, repealed and replaced by section 30 of P.L.1948, c.67 (C.17:9A-  
45 30), [subject to the exception hereinafter made,] in order to  
46 facilitate **[and hasten]** the orderly liquidation **[and the winding up**

1 of the affairs] of the ["liquidating company"] predecessor  
2 company. [it shall and may be lawful for such] the ["successor  
3 company"] successor company shall be permitted [from time to  
4 time,] to [take over and become] be substituted as fiduciary in  
5 [any or all] those matters in which [said "liquidating company"]  
6 the predecessor company has qualified[; in any and all matters  
7 where].

8 If in the sound judgment of the ["liquidating company"]  
9 predecessor company and the ["successor company"] successor  
10 company such a substitution of fiduciary is deemed [advisable,] in  
11 the best interests of the trust or relation [,] and in aid of the  
12 [winding up of the affairs of the "liquidating company,"  
13 "liquidating company"] liquidation, the predecessor company may  
14 file its account to date with the court having [the] jurisdiction  
15 [thereof], and upon approval [of such account] thereof and [upon  
16 the] discharge [of the "liquidating company"] from [such] the  
17 trust or relation the [said " successor company"] successor  
18 company shall succeed to [all such] the rights, relations, and trusts  
19 and [the] associated duties [connected therewith], and shall  
20 execute and perform [each and every such] the trust or relation [in  
21 the same manner] as if [such "successor company"] the successor  
22 company had [itself] originally assumed the trust or relation;  
23 provided, however, that the ["successor company"] successor  
24 company shall not assume [no] the liabilities [which may have  
25 been] incurred by the ["liquidating company"] predecessor  
26 company incident to its administration of [such] the trust or  
27 relation.

28 [The "successor company"] Subject to this section, the successor  
29 company shall [as to such matters] succeed to [all] the rights and  
30 duties of the ["liquidating company"] predecessor company and to  
31 all fiduciary capacities[, whether as administrator, coadministrator,  
32 executor, coexecutor, trustee or cotrustee, guardian, coguardian,  
33 assignee, coassignee, receiver, coreceiver, committee or  
34 committeeman of estates of lunatics, or in any other fiduciary  
35 capacity of or] in respect to any estate or trust or other matter being  
36 administered under the laws of New Jersey, or as transfer agent or  
37 registrar of stocks and bonds[, such relations as well as any other or  
38 similar fiduciary relations and all rights, privileges and duties  
39 connected therewith shall remain unimpaired, subject as  
40 aforesaid,].

41 Subject to this section, all fiduciary rights, privileges, and duties  
42 shall remain unimpaired and shall continue [into and] in the [said]  
43 ["successor company"] successor company from [and as of] the  
44 date of discharge by the court of the ["liquidating company"]

1 predecessor company from **such** the trust or relation, **by the**  
2 **court, irrespective** regardless of : (i) the date **when such** the  
3 relationship **may have been created or** was established **,** and  
4 **irrespective of the date of said** ; (ii) the trust agreement **relating**  
5 **thereto or the date of death of any** was created; or (iii) the trustor  
6 **or** the decedent **or lunatic** the person who is mentally  
7 incapacitated, or the minor **whose estate is being so administered**  
8 **or managed, and it shall not be necessary for said "successor**  
9 **company"** died, without the need for the successor company to  
10 seek appointment in **said** the person's estates **by any court of**  
11 **this State**; provided **,** further, **that** **in all cases** where the  
12 instrument under which the **"liquidating company"** predecessor  
13 company qualified to act did not require the **"liquidating company"**  
14 **to furnish** furnishing of a bond, no **such** bond shall be required  
15 **of the "successor company" as provided for in section 17:4-41, or**  
16 **otherwise. The terms "successor company" and "liquidating**  
17 **company" as used herein shall apply to and be construed to have**  
18 **the same meaning as is placed on said terms by section 17:4-9**.  
19 (cf: P.L.1942, c.230, s.1)

20

21 61. Section 18 of P.L.1969, c.242 (C.18A:66-184) is amended to  
22 read as follows:

23 18. The disability benefits provided under **such** a group policy  
24 or policies for all eligible participants in the alternate benefit  
25 programs shall provide a monthly income if the participant becomes  
26 totally disabled from occupational or nonoccupational causes for a  
27 period of at least **6** six consecutive months following the  
28 effective date of the coverage. The monthly disability benefit may  
29 be paid by the insurance company so long as the participant remains  
30 disabled up to **his seventieth** the participant's 70th birthday,  
31 provided the disability commenced prior to **his sixtieth** the  
32 participant's 60th birthday. The benefit will terminate when the  
33 participant is no longer considered totally disabled or begins to  
34 receive retirement benefits.

35 The participant will be considered totally disabled if **he is**  
36 unable to perform each duty of **his** the participant's occupation  
37 and is under the regular care of a physician. After the 12 months  
38 following the commencement of **such** the disability benefit  
39 payments, **he** the participant must be unable to engage in any  
40 gainful occupation for which **he** the participant is reasonably  
41 fitted by education, training, or experience. Total disability is not  
42 considered to exist if **he** the participant is gainfully employed.  
43 However, following an agreement with the insurance company and  
44 the policyholder, the participant can continue to receive disability  
45 benefits for a limited time while performing some type of work.

1 During the period of rehabilitation the monthly benefit will be the  
 2 regular payment less 80% of the participant's earnings from **[such]**  
 3 the rehabilitative position.

4 For purposes of this section, a participant shall be deemed to be  
 5 in service and covered by the disability benefit insurance provisions  
 6 for a period of no more than **[6]** six months while on official leave  
 7 of absence without pay if satisfactory evidence is presented to the  
 8 Division of Pensions and Benefits that **[such]** the leave of absence  
 9 without pay is due to illness and that the member was not actively  
 10 engaged in any gainful occupation during **[such]** the period of  
 11 leave of absence without pay.

12 Disability benefit insurance provisions of the group policy or  
 13 policies shall not cover disability resulting from or contributed to  
 14 by pregnancy, act of war, intentionally self-inflicted injury, or  
 15 attempted suicide **[whether or not sane]** regardless of mental  
 16 capacity. For purposes of **[such]** disability insurance the  
 17 participant will not be considered to be disabled while **[he is]**  
 18 imprisoned or **[while]** outside the United States, its territories or  
 19 possessions, or Canada.

20 If the participant has recovered from the disability for which  
 21 **[he]** the participant had received benefits and again becomes totally  
 22 disabled while insured, the later disability will be regarded as a  
 23 continuation of the prior one unless the participant has returned to  
 24 full-time covered employment for at least **[6]** six months.  
 25 However, if the later absence is due to an unrelated cause and the  
 26 participant had returned to full-time work, it will be considered a  
 27 new disability. The disability benefit insurance cannot be converted  
 28 to an individual policy.

29 No person shall be covered by the disability benefit provision of  
 30 the group policy or policies except upon the completion of one year  
 31 of full-time continuous employment in a position eligible for  
 32 participation in the alternate benefit program.

33 (cf: P.L.1969, c.242, s.18)

34

35 62. N.J.S.22A:2-10 is amended to read as follows:

36 22A:2-10. Chancery Division of Superior Court; costs awarded.

37 Upon the completion and determination of the following actions  
 38 and proceedings in the Chancery Division of the Superior Court, the  
 39 costs awarded to a party therein for the drawing of papers, including  
 40 orders, writs and judgments, shall be as stated below:

41 Plaintiff's costs, foreclosure	\$ 50.00
42 Plaintiff's costs, partition	70.00
43 Plaintiff's and receiver's costs, receivership	125.00
44 Plaintiff's costs, receivership	62.50
45 Receiver's costs, receivership	62.50
46 Plaintiff's costs, divorce, dissolution of civil	
47 union, nullity, custody	30.00

1	Plaintiff's costs, causes of action for other relief	65.00
2	Plaintiff's costs, <b>【incompetency】</b> <u>incapacity</u> action	47.50
3	Plaintiff's costs, sale of lands of <b>【infant】</b> <u>minor</u>	
4	or <b>【incompetent】</b> <u>incapacitated individual</u>	50.00
5	Plaintiff's costs, release of dower or curtesy	50.00
6	Plaintiff's costs, mortgage lands of <b>【an infant】</b> <u>a minor</u> or	
7	<b>【incompetent】</b> <u>incapacitated individual</u>	50.00
8	Plaintiff's costs, interpleader	35.00
9	Plaintiff's costs, appointment of tax receiver	27.50
10	Plaintiff's costs, actions for payment of money	
11	into court; to hold real estate; to limit creditors	22.50
12	Plaintiff's costs, action for appointment of	
13	trustee or substituted trustee	33.50
14	Costs on contempt proceedings	25.00
15	Costs on application to fix dower or curtesy	22.50
16	Costs on application to pay moneys out of court	23.50
17	Costs on application for instructions, or to	
18	approve account	30.00
19	Costs on application for writ of execution	10.00
20	Costs on application for relief from final judgment	
21	or, in a matrimonial cause from judgment	
22	nisi or order	20.00
23	Costs on application for writ of possession	30.00
24	Costs on application for alimony pendente lite,	
25	attorney fee, suit money	20.00
26	Defendant's costs where final judgment	
27	is taken by <b>【him】</b> <u>defendant</u>	30.00
28	Defendant's costs where final judgment is	
29	not taken by <b>【him】</b> <u>defendant</u>	20.00
30	Costs upon any other litigated or special motion,	
31	subsidiary or interlocutory, not heretofore	
32	provided for	50.00
33	(cf: P.L.2006, c.103, s.84)	

35 63. Section 2 of P.L.1991, c.201 (C.26:2H-54) is amended to  
36 read as follows:

37 2. The Legislature finds and declares that:

38 a. **【Competent adults】** Adults have the fundamental right, in  
39 collaboration with their health care providers, to control decisions  
40 about their own health care unless they lack the mental capacity to  
41 do so. This State recognizes, in its law and public policy, the  
42 personal right of the individual patient to make voluntary, informed  
43 choices to accept, to reject, or to choose among alternative courses  
44 of medical and surgical treatment.

45 b. Modern advances in science and medicine have made possible  
46 the prolongation of the lives of many seriously ill individuals,  
47 without always offering realistic prospects for improvement or cure.

1 For some individuals, the possibility of extended life is experienced  
2 as meaningful and of benefit. For others, artificial prolongation of  
3 life may seem to provide nothing medically necessary or beneficial,  
4 serving only to extend suffering and prolong the dying process.  
5 This State recognizes the inherent dignity and value of human life  
6 and within this context recognizes the fundamental right of  
7 individuals to make health care decisions to have life-prolonging  
8 medical or surgical means or procedures provided, withheld, or  
9 withdrawn.

10 c. In order that the right to control decisions about one's own  
11 health care should not be lost in the event a patient loses decision  
12 making capacity and is no longer able to participate actively in  
13 making **his own** such health care decisions, this State recognizes  
14 the right of **competent** adults, who have the mental capacity, to  
15 plan ahead for health care decisions through the execution of  
16 advance directives, such as living wills and durable powers of  
17 attorney, and to have the wishes expressed therein respected,  
18 subject to certain limitations.

19 d. The right of individuals to forego life-sustaining measures is  
20 not absolute and is subject to certain interests of society. The most  
21 significant of these societal interests is the preservation of life,  
22 understood to embrace both an interest in preserving the life of the  
23 particular patient and a related but distinct interest in preserving the  
24 sanctity of all human life as an enduring social value. A second,  
25 closely related societal interest is the protection of individuals from  
26 direct and purposeful self-destruction, motivated by a specific intent  
27 to die. A third interest is the protection of innocent third parties  
28 who may be harmed by the patient's decision to forego therapy; this  
29 interest may be asserted to prevent the emotional and financial  
30 abandonment of the patient's minor children or to protect the  
31 paramount concerns of public health or safety. A fourth interest  
32 encompasses safeguarding the ethical integrity of the health care  
33 professions, individual professionals, and health care institutions,  
34 and maintaining public confidence and trust in the integrity and  
35 caring role of health care professionals and institutions. Finally,  
36 society has an interest in ensuring the soundness of health care  
37 decision making, including both protecting vulnerable patients from  
38 potential abuse or neglect and facilitating the exercise of informed  
39 and voluntary patient choice.

40 e. In accordance with these State interests, this State expressly  
41 rejects on both legal and moral grounds the practice of active  
42 euthanasia. No individual shall have the right to, nor shall any  
43 physician or other health care professional be authorized to engage  
44 in, the practice of active euthanasia.

45 f. In order to assure respect for patients' previously expressed  
46 wishes when the capacity to participate actively in decision making  
47 has been lost or impaired; to facilitate and encourage a sound  
48 decision making process in which patients, health care



1 representatives, families, physicians, and other health care  
2 professionals are active participants; to properly consider patients'  
3 interests both in self-determination and in well-being; and to  
4 provide necessary and appropriate safeguards concerning the  
5 termination of life-sustaining treatment for **【incompetent】** patients  
6 who lack mental capacity as the law and public policy of this State,  
7 the Legislature hereby enacts the New Jersey Advance Directives  
8 for Health Care Act.

9 (cf: P.L.1991, c.201, s.2)

10

11 64. Section 3 of P.L.1991, c.201 (C.26:2H-55) is amended to  
12 read as follows:

13 3. As used in **【this act】** P.L.1991, c.201 (C.26:2H-53 et seq.):

14 "Adult" means an individual **【18 years of age or older】** who has  
15 reached majority pursuant to section 3 of P.L.1972, c.81 (C.9:17B-  
16 3).

17 "Advance directive for health care" or "advance directive" means  
18 a writing executed in accordance with the requirements of **【this act】**  
19 P.L.1991, c.201. An "advance directive" may include a proxy  
20 directive or an instruction directive, or both.

21 "Attending physician" means the physician selected by, or  
22 assigned to, the patient who has primary responsibility for the  
23 treatment and care of the patient.

24 "Decision making capacity" means a patient's ability to  
25 understand and appreciate the nature and consequences of health  
26 care decisions, including the benefits and risks of each, and  
27 alternatives to any proposed health care, and to reach an informed  
28 decision. A patient's decision making capacity is evaluated relative  
29 to the demands of a particular health care decision.

30 "Declarant" means **【a competent】** an adult who 【executes】 has  
31 the mental capacity to execute an advance directive and does so.

32 "Do not resuscitate order" means a physician's written order not  
33 to attempt cardiopulmonary resuscitation in the event the patient  
34 suffers a cardiac or respiratory arrest.

35 "Emergency care" means immediate treatment provided in  
36 response to a sudden, acute, and unanticipated medical crisis in  
37 order to avoid injury, impairment, or death.

38 "Health care decision" means a decision to accept or to refuse  
39 any treatment, service, or procedure used to diagnose, treat, or care  
40 for a patient's physical or mental condition, including life-sustaining  
41 treatment. "Health care decision" also means a decision to accept  
42 or to refuse the services of a particular physician, nurse, other  
43 health care professional or health care institution, including a  
44 decision to accept or to refuse a transfer of care.

45 "Health care institution" means all institutions, facilities, and  
46 agencies licensed, certified, or otherwise authorized by State law to  
47 administer health care in the ordinary course of business, including

1 hospitals, nursing homes, residential health care facilities, home  
2 health care agencies, hospice programs operating in this State,  
3 mental health institutions, facilities or agencies, or institutions,  
4 facilities, and agencies for the developmentally disabled. The term  
5 "health care institution" shall not be construed to include "health  
6 care professionals" as defined in **[this act]** P.L.1991, c.201.

7 "Health care professional" means an individual licensed by this  
8 State to administer health care in the ordinary course of business or  
9 practice of a profession.

10 "Health care representative" means the individual designated by  
11 a declarant pursuant to the proxy directive part of an advance  
12 directive for the purpose of making health care decisions on the  
13 declarant's behalf, and includes an individual designated as an  
14 alternate health care representative who is acting as the declarant's  
15 health care representative in accordance with the terms and order of  
16 priority stated in an advance directive.

17 "Instruction directive" means a writing which provides  
18 instructions and direction regarding the declarant's wishes for health  
19 care in the event that the declarant subsequently lacks decision  
20 making capacity.

21 "Life-sustaining treatment" means the use of any medical device  
22 or procedure, artificially provided fluids and nutrition, drugs,  
23 surgery, or therapy that uses mechanical or other artificial means to  
24 sustain, restore, or supplant a vital bodily function, and thereby  
25 increase the expected life span of a patient.

26 "Other health care professionals" means health care professionals  
27 other than physicians and nurses.

28 "Patient" means an individual who is under the care of a  
29 physician, nurse, or other health care professional.

30 "Permanently unconscious" means a medical condition that has  
31 been diagnosed in accordance with currently accepted medical  
32 standards and with reasonable medical certainty as total and  
33 irreversible loss of consciousness and capacity for interaction with  
34 the environment. The term "permanently unconscious" includes  
35 without limitation a persistent vegetative state or irreversible coma.

36 "Physician" means an individual licensed to practice medicine  
37 and surgery in this State.

38 "Proxy directive" means a writing which designates a health care  
39 representative in the event the declarant subsequently lacks decision  
40 making capacity.

41 "State" means a state, territory, or possession of the United  
42 States, the District of Columbia, or the Commonwealth of Puerto  
43 Rico.

44 "Terminal condition" means the terminal stage of an irreversibly  
45 fatal illness, disease, or condition. A determination of a specific  
46 life expectancy is not required as a precondition for a diagnosis of a  
47 "terminal condition," but a prognosis of a life expectancy of six  
48 months or less, with or without the provision of life-sustaining

1 treatment, based upon reasonable medical certainty, shall be  
2 deemed to constitute a terminal condition.

3 (cf: P.L.1991, c.201, s.3)

4

5 65. Section 5 of P.L.1991, c.201 (C.26:2H-57) is amended to  
6 read as follows:

7 5. a. A declarant may reaffirm or modify either a proxy  
8 directive, or an instruction directive, or both. The reaffirmation or  
9 modification shall be made in accordance with the requirements for  
10 execution of an advance directive pursuant to section 4 of **[this act]**  
11 P.L.1991, c.201 (C.26:2H-56).

12 b. A declarant may revoke an advance directive, including a  
13 proxy directive, or an instruction directive, or both, by the  
14 following means:

15 (1) Notification, orally or in writing, to the health care  
16 representative, physician, nurse, or other health care professional,  
17 or other reliable witness, or by any other act evidencing an intent to  
18 revoke the document; or

19 (2) Execution of a subsequent proxy directive or instruction  
20 directive, or both, in accordance with section 4 of **[this act]**  
21 P.L.1991, c.201 (C.26:2H-56).

22 c. Designation of the declarant's spouse as health care  
23 representative shall be revoked upon divorce or legal separation,  
24 and designation of the declarant's domestic partner as defined in  
25 section 3 of P.L.2003, c.246 (C.26:8A-3) as health care  
26 representative shall be revoked upon termination of the declarant's  
27 domestic partnership or designation of the declarant's partner in a  
28 civil union as defined in section 2 of P.L.2006, c.103 (C.37:1-29)  
29 shall be revoked upon termination of the declarant's civil union,  
30 unless otherwise specified in the advance directive.

31 d. **[An incompetent]** A patient who lacks mental capacity may  
32 suspend an advance directive, including a proxy directive, an  
33 instruction directive, or both, by any of the means stated in  
34 paragraph (1) of subsection b. of this section. **[An incompetent]** A  
35 patient who lacks mental capacity and has suspended an advance  
36 directive may reinstate that advance directive by oral or written  
37 notification to the health care representative, physician, nurse, or  
38 other health care professional of an intent to reinstate the advance  
39 directive.

40 e. Reaffirmation, modification, revocation, or suspension of an  
41 advance directive is effective upon communication to any person  
42 capable of transmitting the information including the health care  
43 representative, the attending physician, nurse, or other health care  
44 professional responsible for the patient's care.

45 (cf: P.L.2003, c.246, s.28)

46

47 66. Section 6 of P.L.1991, c.201 (C.26:2H-58) is amended to  
48 read as follows:

1       6. a. A declarant may execute a proxy directive, pursuant to the  
2 requirements of section 4 of **[this act]** P.L.1991, c.201 (C.26:2H-  
3 56), designating **[a competent]** an adult with mental capacity to act  
4 as **[his]** the declarant's health care representative.

5       (1) **[A competent]** An adult who has mental capacity, including,  
6 but not limited to, a declarant's spouse, partner in a civil union as  
7 defined in section 2 of P.L.2006, c.103 (C.37:1-29), domestic  
8 partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3),  
9 adult child, parent, or other family member, friend, religious or  
10 spiritual advisor, or other person of the declarant's choosing, may  
11 be designated as a health care representative.

12       (2) An operator, administrator, or employee of a health care  
13 institution in which the declarant is a patient or resident shall not  
14 serve as the declarant's health care representative unless the  
15 operator, administrator, or employee is related to the declarant by  
16 blood, marriage, domestic partnership, civil union, or adoption.

17       This restriction does not apply to a physician, if the physician  
18 does not serve as the patient's attending physician and the patient's  
19 health care representative at the same time.

20       (3) A declarant may designate one or more alternate health care  
21 representatives, listed in order of priority. In the event the primary  
22 designee is unavailable, unable, or unwilling to serve as health care  
23 representative, or is disqualified from such service pursuant to this  
24 section or any other law, the next designated alternate shall serve as  
25 health care representative. In the event the primary designee  
26 subsequently becomes available and able to serve as health care  
27 representative, the primary designee may, insofar as then  
28 practicable, serve as health care representative.

29       (4) A declarant may direct the health care representative to  
30 consult with specified individuals, including alternate designees,  
31 family members, and friends, in the course of the decision making  
32 process.

33       (5) A declarant shall state the limitations, if any, to be placed  
34 upon the authority of the health care representative including the  
35 limitations, if any, which may be applicable if the declarant is  
36 pregnant.

37       b. A declarant may execute an instruction directive, pursuant to  
38 the requirements of section 4 of **[this act]** P.L.1991, c.201  
39 (C.26:2H-56), stating the declarant's general treatment philosophy  
40 and objectives; or the declarant's specific wishes regarding the  
41 provision, withholding, or withdrawal of any form of health care,  
42 including life-sustaining treatment; or both. An instruction  
43 directive may, but need not, be executed contemporaneously with,  
44 or be attached to, a proxy directive.

45 (cf: P.L.2003, c.246, s.29)

1       67. Section 8 of P.L.1991, c.201 (C.26:2H-60) is amended to  
2 read as follows:

3       8. a. The attending physician shall determine whether the  
4 patient lacks capacity to make a particular health care decision. The  
5 determination shall be stated in writing, shall include the attending  
6 physician's opinion concerning the nature, cause, extent, and  
7 probable duration of the patient's incapacity, and shall be made a  
8 part of the patient's medical records.

9       b. The attending physician's determination of a lack of decision  
10 making capacity shall be confirmed by one or more physicians. The  
11 opinion of the confirming physician shall be stated in writing and  
12 made a part of the patient's medical records in the same manner as  
13 that of the attending physician. Confirmation of a lack of decision  
14 making capacity is not required when the patient's lack of decision  
15 making capacity is clearly apparent, and the attending physician and  
16 the health care representative agree that confirmation is  
17 unnecessary.

18       c. If the attending physician or the confirming physician  
19 determines that a patient lacks decision making capacity because of  
20 a mental or psychological impairment or a developmental disability,  
21 and neither the attending physician or the confirming physician has  
22 specialized training or experience in diagnosing mental or  
23 psychological conditions or developmental disabilities of the same  
24 or similar nature, a determination of a lack of decision making  
25 capacity shall be confirmed by one or more physicians with  
26 appropriate specialized training or experience. The opinion of the  
27 confirming physician shall be stated in writing and made a part of  
28 the patient's medical records in the same manner as that of the  
29 attending physician.

30       d. A physician designated by the patient's advance directive as a  
31 health care representative shall not make or confirm the  
32 determination of a lack of decision making capacity.

33       e. The attending physician shall inform the patient, if the patient  
34 has any ability to comprehend that he has been determined to lack  
35 decision making capacity, and the health care representative that:  
36 (1) the patient has been determined to lack decision making  
37 capacity to make a particular health care decision; (2) each has the  
38 right to contest this determination; and (3) each may have recourse  
39 to the dispute resolution process established by the health care  
40 institution pursuant to section 14 of **[this act]** P.L.1991, c.201  
41 (C.26:2H-66).

42       Notice to the patient and the health care representative shall be  
43 documented in the patient's medical records.

44       f. A determination of lack of decision making capacity under  
45 this act is solely for the purpose of implementing an advance  
46 directive in accordance with the provisions of this act, and shall not  
47 be construed as a determination of a patient's incapacity **[or**  
48 **incompetence]** for any other purpose.

1 g. For purposes of this section, a determination that a patient  
2 lacks decision making capacity shall be based upon, but need not be  
3 limited to, evaluation of the patient's ability to understand and  
4 appreciate the nature and consequences of a particular health care  
5 decision, including the benefits and risks of, and alternatives to, the  
6 proposed health care, and to reach an informed decision.

7 (cf: P.L.1991, c.201, s.8)

8

9 68. Section 2 of P.L.2005, c.233 (C.26:2H-103) is amended to  
10 read as follows:

11 2. The Legislature finds and declares that:

12 a. This State recognizes, in its law and public policy, a patient's  
13 right to make voluntary, informed choices to accept, reject, or  
14 choose among alternative courses of medical and surgical treatment,  
15 and specifically for **【a competent】** an adult who has mental capacity  
16 to plan ahead for health care decisions through the execution of an  
17 advance directive for health care, otherwise known as a living will  
18 or durable power of attorney for health care, and to have the wishes  
19 expressed therein respected, subject to certain limitations;

20 b. Advance directives for health care provide a vehicle for  
21 **【competent】** adults who have mental capacity to operationalize  
22 their fundamental legal right to accept or refuse medical treatment  
23 in the event that they are rendered unable to make decisions and  
24 communicate with a health care provider about their treatment  
25 options because of serious illness, injury, or permanent loss of  
26 mental capacity;

27 c. The issues affecting persons with mental illness and their  
28 psychiatric needs warrant enactment of a separate statute governing  
29 advance directives for these individuals, who: find their civil rights  
30 and due process protections frequently compromised; often lack the  
31 resources, societal supports, and self-esteem needed to make  
32 advance directives for health care work for them; and are  
33 disadvantaged by the fact that many physicians and attorneys are  
34 unaware of the specific issues that typically enter into the decisions  
35 that a person with mental illness may make for himself when in  
36 crisis;

37 d. The provision by statute of advanced directives for mental  
38 health care will assure respect for the rights of patients with mental  
39 illness with respect to the provision of mental health services and  
40 their decision-making in regard thereto; and

41 e. In order to permit a person with mental illness to execute an  
42 advance directive that specifies preferences for mental health  
43 services in the event that the declarant is subsequently determined  
44 to lack decision-making capacity, the Legislature hereby enacts the  
45 "New Jersey Advance Directives for Mental Health Care Act."

46 (cf: P.L.2005, c.233, s.2)

47

1       69. Section 3 of P.L.2005, c.233 (C.26:2H-104) is amended to  
2 read as follows:

3       3. As used in this act:

4       "Adult" means an individual **[18 years of age or older]** who has  
5 reached majority pursuant to section 3 of P.L.1972, c.81 (C.9:17B-  
6 3).

7       "Advance directive for mental health care" or "advance  
8 directive" means a writing executed in accordance with the  
9 requirements of this act. An "advance directive" may include a  
10 proxy directive or an instruction directive, or both.

11       "Decision-making capacity" means a patient's ability to  
12 understand and appreciate the nature and consequences of mental  
13 health care decisions, including the benefits and risks of each, and  
14 alternatives to any proposed mental health care, and to reach an  
15 informed decision. A patient's decision-making capacity is  
16 evaluated relative to the demands of a particular mental health care  
17 decision.

18       "Declarant" means **[a competent]** an adult who [executes] has  
19 the mental capacity to execute an advance directive for mental  
20 health care and does so.

21       "Domestic partner" means a domestic partner as defined in  
22 section 3 of P.L.2003, c.246 (C.26:8A-3).

23       "Instruction directive" means a writing which provides  
24 instructions and direction regarding the declarant's wishes for  
25 mental health care in the event that the declarant subsequently lacks  
26 decision-making capacity.

27       "Mental health care decision" means a decision to accept or  
28 refuse any treatment, service, or procedure used to diagnose, treat,  
29 or care for a patient's mental condition. "Mental health care  
30 decision" also means a decision to accept or refuse the services of a  
31 particular mental health care professional or psychiatric facility,  
32 including a decision to accept or to refuse a transfer of care.

33       "Mental health care professional" means an individual licensed  
34 or certified by this State to provide or administer mental health care  
35 in the ordinary course of business or practice of a profession.

36       "Mental health care representative" means the individual  
37 designated by a declarant pursuant to the proxy directive part of an  
38 advance directive for mental health care for the purpose of making  
39 mental health care decisions on the declarant's behalf, and includes  
40 an individual designated as an alternate mental health care  
41 representative who is acting as the declarant's mental health care  
42 representative in accordance with the terms and order of priority  
43 stated in an advance directive for mental health care.

44       "Patient" means an individual who is under the care of a mental  
45 health care professional.

46       "Proxy directive" means a writing which designates a mental  
47 health care representative in the event that the declarant  
48 subsequently lacks decision-making capacity.

1 "Psychiatric facility" means a State psychiatric facility listed in  
2 R.S.30:1-7, a county psychiatric hospital or the psychiatric unit of a  
3 county hospital, a short-term care facility, special psychiatric  
4 hospital or psychiatric unit of a general hospital or other health care  
5 facility licensed by the Department of Health pursuant to P.L.1971,  
6 c.136 (C.26:2H-1 et seq.), or a hospital or community-based mental  
7 health center or other entity licensed or funded by the Department  
8 of Human Services to provide community-based mental health  
9 services.

10 "Responsible mental health care professional" means a person  
11 licensed or certified by the State to provide or administer mental  
12 health care who is selected by, or assigned to, the patient and has  
13 primary responsibility for the care and treatment of the patient.

14 "State" means a state, territory, or possession of the United  
15 States, the District of Columbia, or the Commonwealth of Puerto  
16 Rico.

17 (cf: P.L.2012. c.17, s.248)

18

19 70. Section 5 of P.L.2005, c.233 (C.26:2H-106) is amended to  
20 read as follows:

21 5. a. (1) An advance directive for mental health care shall be  
22 deemed to be valid for an indefinite period of time if it does not  
23 include an expiration date, subject to a declarant's right to modify,  
24 revoke, or suspend the advance directive in accordance with the  
25 provisions of this section.

26 (2) If an advance directive includes an expiration date that  
27 occurs during a period of time in which the declarant has been  
28 determined by the responsible mental health care professional to  
29 lack the capacity to make a particular mental health care decision,  
30 the advance directive shall remain in effect until the declarant is  
31 determined by the responsible mental health care professional to  
32 have regained the capacity to make a particular mental health care  
33 decision.

34 b. A declarant may state in an advance directive for mental  
35 health care, including a proxy directive or an instruction directive,  
36 or both, whether the declarant wishes to be able to modify, revoke  
37 or suspend the advance directive after it has become operative  
38 pursuant to section 7 of **[this act]** P.L.2005, c.233 (C.26:2H-108);  
39 however, the failure to include such a statement in the advance  
40 directive shall not be construed to prevent the declarant from  
41 modifying, revoking or suspending the advance directive under the  
42 circumstances described in this subsection.

43 c. A declarant may reaffirm or modify an advance directive for  
44 mental health care, including a proxy directive or an instruction  
45 directive, or both, subject to the provisions of subsection b. of this  
46 section. The reaffirmation or modification shall be made in  
47 accordance with the requirements for execution of an advance



1 directive for mental health care pursuant to section 4 of **【this act】**  
2 P.L.2005, c.233 (C.26:2H-105).

3 d. A declarant may revoke an advance directive for mental  
4 health care, including a proxy directive or an instruction directive,  
5 or both, subject to the provisions of subsection b. of this section, by  
6 the following means:

7 (1) notification, orally or in writing, to the mental health care  
8 representative or mental health care professional, or other reliable  
9 witness, or by any other act evidencing an intent to revoke the  
10 document; or

11 (2) execution of a subsequent proxy directive or instruction  
12 directive, or both, in accordance with section 4 of **【this act】**  
13 P.L.2005, c.233 (C.26:2H-105).

14 e. Designation of the declarant's spouse as mental health care  
15 representative shall be revoked upon divorce or legal separation,  
16 and designation of the declarant's domestic partner as mental health  
17 care representative shall be revoked upon termination of the  
18 declarant's domestic partnership or designation of the declarant's  
19 civil union partner as mental health care representative shall be  
20 revoked upon termination of the declarant's civil union, unless  
21 otherwise specified in the advance directive.

22 f. An inpatient in a psychiatric facility may modify, revoke, or  
23 suspend an advance directive for mental health care, including a  
24 proxy directive or an instruction directive, or both, by any of the  
25 means stated in paragraph (1) of subsection d. of this section, unless  
26 a responsible mental health professional determines, in accordance  
27 with the provisions of section 8 of **【this act】** P.L.2005, c.233  
28 (C.26:2H-109), that the patient lacks decision-making capacity to  
29 make the decision to modify, revoke, or suspend the advance  
30 directive. A patient who has modified, revoked, or suspended an  
31 advance directive may reinstate that advance directive by oral or  
32 written notification to the mental health care representative or  
33 mental health care professional of an intent to reinstate the advance  
34 directive.

35 g. Reaffirmation, modification, or revocation of an advance  
36 directive for mental health care is effective upon communication to  
37 any person capable of transmitting the information, including the  
38 mental health care representative or mental health care professional  
39 responsible for the patient's care.

40 (cf: P.L.2005, c.233, s.5)

41

42 71. Section 6 of P.L.2005, c.233 (C.26:2H-107) is amended to  
43 read as follows:

44 6. a. A declarant may execute a proxy directive, pursuant to the  
45 requirements of section 4 of **【this act】** P.L.2005, c.233 (C.26:2H-  
46 105), designating **【a competent】** an adult who has mental capacity  
47 to act as the declarant's mental health care representative.

1 (1) **【A competent】** An adult who has mental capacity, including,  
2 but not limited to, a declarant's spouse, domestic partner, civil union  
3 partner, adult child, parent, or other family member, friend,  
4 religious or spiritual advisor, or other person of the declarant's  
5 choosing, may be designated as a mental health care representative.

6 (2) An operator, administrator, or employee of a psychiatric  
7 facility in which the declarant is a patient or resident shall not serve  
8 as the declarant's mental health care representative unless the  
9 operator, administrator, or employee is related to the declarant by  
10 blood, marriage, domestic partnership, civil union, or adoption.

11 This restriction shall not apply to a mental health care  
12 professional if that individual does not serve as the patient's  
13 responsible mental health care professional or other provider of  
14 mental health care services to the patient and the patient's mental  
15 health care representative at the same time.

16 (3) A declarant may designate one or more alternate mental  
17 health care representatives, listed in order of priority. In the event  
18 that the primary designee is unavailable, unable, or unwilling to  
19 serve as mental health care representative, or is disqualified from  
20 such service pursuant to this section or any other law, the next  
21 designated alternate shall serve as mental health care representative.  
22 In the event that the primary designee subsequently becomes  
23 available and able to serve as mental health care representative, the  
24 primary designee may, insofar as then practicable, serve as mental  
25 health care representative.

26 (4) A declarant may direct the mental health care representative  
27 to consult with specified individuals, including alternate designees,  
28 family members, and friends, in the course of the decision-making  
29 process.

30 (5) A declarant shall state the limitations, if any, to be placed  
31 upon the authority of the mental health care representative.

32 (6) If a declarant explicitly authorizes the mental health care  
33 representative to consent to the declarant's admission to a  
34 psychiatric facility, the declarant shall separately initial each  
35 paragraph in which that authorization is granted at the time that the  
36 proxy directive is signed and witnessed.

37 b. A declarant may execute an instruction directive, pursuant to  
38 the requirements of section 4 of **【this act】** P.L.2005, c.233  
39 (C.26:2H-105), which specifies preferences for mental health  
40 services in the event that the declarant is subsequently determined  
41 to lack decision-making capacity.

42 (1) The instruction directive may include: a statement of the  
43 declarant's general mental health care philosophy and objectives;  
44 the declarant's specific wishes regarding the provision, withholding,  
45 or withdrawal of any form of mental health care; or both.

46 (2) The declarant's specific wishes regarding the provision,  
47 withholding, or withdrawal of any form of mental health care may  
48 include:

- 1 (a) the identification of mental health care professionals and
  - 2 programs and psychiatric facilities that the declarant would prefer
  - 3 to provide mental health services;
  - 4 (b) consent to admission to a psychiatric facility for up to a
  - 5 specified number of days;
  - 6 (c) a refusal to accept specific types of mental health treatment,
  - 7 including medications;
  - 8 (d) a statement of medications preferred by the declarant for
  - 9 mental health treatment;
  - 10 (e) a statement of the preferred means of crisis intervention or
  - 11 other preferences for mental health treatment; and
  - 12 (f) additional instructions or information concerning mental
  - 13 health care.
- 14 (3) An instruction directive may, but need not, be executed
- 15 contemporaneously with, or be attached to, a proxy directive.
- 16 (cf: P.L.2005, c.233, s.6)

17

18 72. Section 8 of P.L.2005, c.233 (C.26:2H-109) is amended to

19 read as follows:

20 8. a. The responsible mental health care professional shall

21 determine whether the patient lacks the capacity to make a

22 particular mental health care decision. The determination shall: be

23 stated in writing; include the responsible mental health care

24 professional's opinion concerning the nature, cause, extent, and

25 probable duration of the patient's incapacity; and be made a part of

26 the patient's medical records.

27 b. The responsible mental health care professional's

28 determination of a lack of decision-making capacity shall be

29 confirmed by one or more mental health care professionals. The

30 opinion of the confirming mental health care professional shall be

31 stated in writing and made a part of the patient's medical records in

32 the same manner as that of the responsible mental health care

33 professional.

34 c. A mental health care professional designated by the patient's

35 advance directive as a mental health care representative shall not

36 make the determination of a lack of decision-making capacity.

37 d. The responsible mental health care professional shall inform

38 the patient, if the patient has any ability to comprehend that he has

39 been determined to lack decision-making capacity, and the mental

40 health care representative that:

41 (1) the patient has been determined to lack decision-making

42 capacity to make a particular mental health care decision;

43 (2) each has the right to contest this determination; and

44 (3) each may have recourse to the dispute resolution process

45 established by the psychiatric facility pursuant to section 14 of **[this**

46 **act]** P.L.2005, c.223 (C.26:2H-115). Notice to the patient and the

47 mental health care representative shall be documented in the

48 patient's medical records.

1 e. A determination of lack of decision-making capacity under  
2 this act shall be solely for the purpose of implementing an advance  
3 directive for mental health care in accordance with the provisions of  
4 this act, and shall not be construed as a determination of a patient's  
5 incapacity **【or incompetence】** for any other purpose.

6 f. For the purposes of this section, a determination that a patient  
7 lacks decision-making capacity shall be based upon, but need not be  
8 limited to, an evaluation of the patient's ability to understand and  
9 appreciate the nature and consequences of a particular mental health  
10 care decision, including the benefits and risks of, and alternatives  
11 to, the proposed mental health care, and to reach an informed  
12 decision.

13 g. For the purposes of this section, "mental health care decision"  
14 includes a decision to modify, revoke, or suspend an advance  
15 directive for mental health care as provided in subsection f. of  
16 section 5 of **【this act】** P.L.2005, c.233 (C.26:2H-106).  
17 (cf: P.L.2005, c.233, s.8)

18  
19 73. Section 4 of P.L.1989, c.303 (C.26:5C-8) is amended to read  
20 as follows:

21 4. a. The content of a record referred to in section 3 of **【this**  
22 **act】** P.L.1989, c.303 (C.26:5C-7) may be disclosed in accordance  
23 with the prior written informed consent of the person who is the  
24 subject of the record or if the person is **【legally incompetent】**  
25 adjudicated incapacitated or deceased, in accordance with section 8  
26 of **【this act】** P.L.1989, c.303 (C.26:5C-12).

27 b. If the prior written consent of the person who is the subject of  
28 the record is not obtained, the person's records shall be disclosed  
29 only under the following conditions:

30 (1) To qualified personnel for the purpose of conducting  
31 scientific research, but a record shall be released for research only  
32 following review of the research protocol by an Institutional  
33 Review Board constituted pursuant to federal regulation 45 C.F.R.  
34 s. 46.101 et seq. The person who is the subject of the record shall  
35 not be identified, directly or indirectly, in any report of the research  
36 and research personnel shall not disclose the person's identity in any  
37 manner.

38 (2) To qualified personnel for the purpose of conducting  
39 management audits, financial audits, or program evaluation, but the  
40 personnel shall not identify, directly or indirectly, the person who is  
41 the subject of the record in a report of an audit or evaluation, or  
42 otherwise disclose the person's identity in any manner. Identifying  
43 information shall not be released to the personnel unless it is vital to  
44 the audit or evaluation.

45 (3) To qualified personnel involved in medical education or in  
46 the diagnosis and treatment of the person who is the subject of the

1 record. Disclosure is limited to only personnel directly involved in  
2 medical education or in the diagnosis and treatment of the person.

3 (4) To the department as required by State or federal law.

4 (5) As permitted by rules and regulations adopted by the  
5 commissioner for the purposes of disease prevention and control.

6 (6) In all other instances authorized by State or federal law.

7 (cf: P.L.1989, c.303, s.4)

8

9 74. Section 8 of P.L.1989, c.303 (C.26:5C-12) is amended to  
10 read as follows:

11 8. When consent is required for disclosure of the record of a  
12 deceased or legally **【incompetent】** incapacitated person who has or  
13 is suspected of having AIDS or HIV infection, consent may be  
14 obtained:

15 a. From an executor, administrator of the estate, or authorized  
16 representative of the legally **【incompetent】** incapacitated or  
17 deceased person;

18 b. From the person's spouse, domestic partner as defined in  
19 section 3 of P.L.2003, c.246 (C.26:8A-3), primary caretaking  
20 partner or, if none, by another member of the person's family; and

21 c. From the commissioner in the event that a deceased person  
22 has neither an authorized representative or next-of-kin.

23 (cf: P.L.2003, c.246, s.30)

24

25 75. R.S.30:1-18 is amended to read as follows:

26 R.S.30:1-18. No provision of this Title shall restrain or abridge  
27 the power and authority of the Superior Court over the persons and  
28 property of **【the incompetent or】** persons who are mentally ill or  
29 incapacitated.

30 (cf: P.L.1965, c.59, s.5)

31

32 76. R.S.30:4-1 is amended to read as follows:

33 R.S.30:4-1. The State board, with the approval of the Governor,  
34 shall appoint a board of trustees for each State institution or agency  
35 **【within the department】** or for each group or class thereof as it may  
36 determine, from residents of the State without respect to political  
37 affiliation or belief.

38 **【Whenever】** The State board, with the approval of the Governor,  
39 may appoint a board of trustees or authorize or designate an  
40 existing board of trustees whenever the establishment or assumption  
41 of jurisdiction over an additional institution, or the acquisition of  
42 **【a】** an institutional site 【therefor】, is authorized by the Legislature  
43 **【the State board, with the approval of the Governor, may appoint a**  
44 **board of trustees therefor or may authorize or designate any existing**  
45 **board of trustees to assume jurisdiction thereof】.**

46 Each board of trustees of an institution shall be known as "the  
47 board of trustees" naming the institution or group or class for which

1 the board is appointed. The State board, with the approval of the  
2 Governor, shall **[determine the names of]** name the boards of  
3 noninstitutional agencies.

4 Except as otherwise specifically provided by statute, the boards  
5 of trustees shall consist of not less than five nor more than seven  
6 members **[appointed with the approval of the Governor from**  
7 **residents of the State at large without respect to political affiliation**  
8 **or belief]**. At least two women shall be members of each board in  
9 charge of **[the Training School for Boys, Jamesburg, the Home for**  
10 **Disabled Soldiers, Sailors, Marines and their Wives and Widows,**  
11 **and]** the institutions or agencies for **[the]** persons who are blind,  
12 [feble-minded, the epileptic and the insane] or who have a mental  
13 illness or developmental disability, and at least two members of the  
14 Commission for the Blind and Visually Impaired shall themselves  
15 be legally blind but **[they shall]** not **[be]** employees, or related to  
16 an employee by blood, marriage, or adoption **[to any employee, or**  
17 **related to an employee of said commission. At least a majority of**  
18 **the members of each board in charge of the Training School for**  
19 **Girls, Trenton, and the women's reformatory shall be women]**.

20 The term of each board member shall be **[3]** three years  
21 commencing on July 1 and ending on June 30, of the third year  
22 thereafter. A vacancy shall be filled by the State board, with the  
23 approval of the Governor, for the unexpired term only.

24 The members of new or additional boards of trustees shall at the  
25 time of their appointment be divided into groups so that the terms of  
26 two members shall expire on June 30 of the year next succeeding  
27 appointment; the terms of two others on June 30 of the second year  
28 succeeding appointment; the term of the fifth member and in case of  
29 larger boards the term of the sixth member, on June 30 of the third  
30 year succeeding appointment; the term of the seventh member of a  
31 board having seven members, on June 30 of the fourth year  
32 succeeding appointment. Their successors shall be appointed for  
33 **[3-year]** three-year terms.

34 The members of **[such]** boards of trustees shall receive no  
35 compensation for services but shall be reimbursed for actual  
36 expenditures incurred in the performance of duty. They shall be  
37 subject to removal by the State board, with the approval of the  
38 Governor, at any time for good and sufficient cause.

39 **[On]** Annually, on or before July 1 **[of each year]** each **[such]**  
40 board of trustees shall **[reorganize by the election]** elect from  
41 **[among]** its members **[of]** a **[chairman and vice chairman]** chair  
42 and vice chair and shall appoint a secretary, with the approval of the  
43 chief executive officer of the institution, who shall be an employee  
44 of the **[department]** institution or agency and **[shall]** serve at the  
45 pleasure of the board without additional compensation. The term of  
46 office of the **[chairman and vice chairman]** chair and vice chair

1 shall be until June 30 of the following year or until their successors  
2 are elected and qualified.

3 (cf: P.L.1977, c.63, s.12)

4

5 77. Section 1 of 1969, c.181 (C.30:4-7.1) is amended to read as  
6 follows:

7 1. It is hereby declared to be the public policy of this State to  
8 make maximum provision for the health, safety, and welfare of  
9 **【incompetent】** patients who are incapacitated and residents in State  
10 and county institutions for **【the mentally ill and developmentally**  
11 **disabled】** persons with mental illness and persons with  
12 developmental disabilities, for **【developmentally disabled】** persons  
13 with developmental disabilities who are residents in community-  
14 based alternate living arrangements in the State or in private  
15 facilities both in and outside the State, and for inmates under age 18  
16 in State and county penal and correctional institutions, by  
17 permitting the chief executive officer of **【such】** the institution or  
18 the regional administrator of a Division of Developmental  
19 Disabilities community services region to consent to the utilization  
20 of appropriate medical, psychiatric, surgical, and dental treatment  
21 for **【such】** the patients, inmates, and residents where prescribed by  
22 a licensed physician or dentist as provided for herein.

23 (cf: P.L.1997, c.208, s.1)

24

25 78. Section 2 of P.L.1969, c.181 (C.30:4-7.2) is amended to read  
26 as follows:

27 2. The chief executive officer of a State or county **【institution**  
28 **for the mentally ill or developmentally disabled, of】** psychiatric  
29 hospital or developmental center, a State or county penal or  
30 correctional institution, **【of】** or a juvenile facility or detention  
31 center, or the regional administrator of a Division of Developmental  
32 Disabilities community services region is hereby authorized to give  
33 consent for medical, psychiatric, surgical, or dental treatment to  
34 **【incompetent】** patients who lack mental capacity, inmates, or  
35 juveniles under age 18, or residents, hospitalized, confined, or  
36 placed by the Division of Developmental Disabilities in  
37 community-based alternate living arrangements in the State or in  
38 private facilities both in and outside the State, under circumstances  
39 where it appears that:

40 **【(a)】** a. **【Such】** The patients, inmates, juveniles, or residents,  
41 because of **【incompetency】** mental incapacity or nonage, are legally  
42 prevented from giving consent to **【such】** the treatment**【,】**; and

43 **【(b)】** b. Either:

44 **【(i)】** (1) there is no parent or guardian known to **【such】** the  
45 officer or administrator, after reasonable inquiry, who **【is**  
46 **competent】** has the mental capacity to give consent for the

1 treatment of patients, inmates under the age of 18, or residents~~[,] ;~~  
2 or

3 ~~[(ii)] (2)~~ where a parent or guardian, after reasonable notice of  
4 the proposed treatment and a request for consent, and prior to the  
5 date fixed in ~~[such] the~~ notice for the rendering of ~~[said] the~~  
6 treatment, refuses or neglects to execute and submit to ~~[such] the~~  
7 officer or administrator a writing expressing either the grant or  
8 denial of ~~[such] the~~ consent~~[,] ;~~ and

9 ~~[(c)] c.~~ Where a licensed physician, psychiatrist, surgeon, or  
10 dentist certifies that the treatment to be performed is essential and  
11 beneficial to the general health and welfare of ~~[such] the~~ patient,  
12 inmate, or resident, or will improve ~~[his] the~~ opportunity for  
13 recovery or prolong or save ~~[his] the person's~~ life.  
14 (cf: P.L.1997, c.208, s.2)

15

16 79. Section 10 of P.L.1965, c.59 (C.30:4-24.2) is amended to  
17 read as follows:

18 10. a. Subject to any other provisions of law and the  
19 ~~[Constitution] Constitutions~~ of New Jersey and the United States,  
20 no patient shall be deprived of any civil right solely ~~[by reason of~~  
21 ~~his receiving] because of receipt of~~ treatment under the provisions  
22 of this Title nor shall ~~[such] the~~ treatment modify or vary any legal  
23 or civil right of any ~~[such] patient,~~ including, but not limited to, the  
24 right to register for and to vote at elections, or rights relating to the  
25 granting, forfeiture, or denial of a license, permit, privilege, or  
26 benefit pursuant to any law.

27 b. Every patient in treatment shall be entitled to all rights set  
28 forth in ~~[this act] P.L.1965, c.59~~ and shall retain all rights not  
29 specifically denied him under this Title. A notice of the rights set  
30 forth in ~~[this act] P.L.1965, c.59~~ shall be given to every patient  
31 within ~~[5] five~~ days of ~~[his] admission~~ to treatment. ~~[Such] The~~  
32 notice shall be ~~[in writing and] written~~ in simple understandable  
33 language. It shall be in a language the patient understands and if the  
34 patient cannot read ~~the notice,~~ it shall be read to ~~[him] the patient.~~  
35 ~~[In the case of an] If a patient is~~ adjudicated ~~[incompetent patient]~~  
36 ~~incapacitated,~~ ~~[such procedure shall be followed for the patient's~~  
37 ~~guardian] the notice shall be given to the patient's guardian.~~  
38 Receipt of this notice shall be acknowledged in writing, with a copy  
39 placed in the patient's file. If the patient or guardian refuses to  
40 acknowledge receipt of the notice, the person delivering the notice  
41 shall state this in writing, with a copy placed in the patient's file.

42 c. No patient may be presumed to be ~~[incompetent]~~  
43 ~~incapacitated~~ because ~~[he has been examined or treated] of an~~  
44 ~~examination or treatment~~ for mental illness, regardless of whether  
45 ~~[such] the~~ evaluation or treatment was voluntarily or involuntarily



1 received. **Any** A patient who leaves a mental health program  
2 following evaluation or treatment for mental illness, regardless of  
3 whether that evaluation or treatment was voluntarily or  
4 involuntarily received, shall be given a written statement of the  
5 substance of **this act** P.L.1965, c.59.

6 d. Each patient in treatment shall have the following rights, a list  
7 of which shall be prominently posted in all facilities providing  
8 **such** these services and otherwise brought to **his** the patient's  
9 attention by **such** additional means as the department may  
10 designate:

11 (1) To be free from unnecessary or excessive medication. No  
12 medication shall be administered unless at the written order of a  
13 physician. Notation of each patient's medication shall be kept in  
14 **his** the patient's treatment records. At least weekly, the attending  
15 physician shall review the drug regimen of each patient under **his**  
16 the physician's care. All physician's orders or prescriptions shall be  
17 written with a termination date, which shall not exceed 30 days.  
18 Medication shall not be used as punishment, for the convenience of  
19 staff, as a substitute for a treatment program, or in quantities that  
20 interfere with the patient's treatment program. Voluntarily  
21 committed patients shall have the right to refuse medication.

22 (2) Not to be subjected to experimental research, shock  
23 treatment, psychosurgery, or sterilization, without the express and  
24 informed consent of the patient after consultation with counsel or  
25 interested party of the patient's choice. **Such** The consent shall  
26 be **made** in writing, a copy of which shall be placed in the  
27 patient's treatment record. If the patient has been adjudicated  
28 **incompetent** incapacitated, a court of competent jurisdiction shall  
29 **hold a hearing to** determine the necessity of **such** the procedure  
30 **at which** at a hearing where the client is physically present,  
31 represented by counsel, and provided the right and opportunity to be  
32 confronted with and to cross-examine **all** witnesses alleging the  
33 necessity of **such** the procedures. In **such** these proceedings,  
34 the burden of proof shall be on the party alleging the necessity of  
35 **such** the procedures. **In the event that** If a patient cannot afford  
36 counsel, the court shall appoint an attorney not less than 10 days  
37 before the hearing. An attorney so appointed shall be entitled to a  
38 reasonable fee to be determined by the court and paid by the county  
39 from which the patient was admitted. Under no circumstances may  
40 a patient in treatment be subjected to experimental research **which**  
41 is not directly related to the specific goals of **his** the patient's  
42 treatment program.

43 (3) To be free from physical restraint and isolation. Except for  
44 emergency situations, in which a patient has caused substantial  
45 property damage or **has** attempted to harm himself or others and  
46 in which less restrictive means of restraint are not feasible, a patient

1 may be physically restrained or placed in isolation, only on a  
2 medical director's written order or that of **his** the director's  
3 physician designee which explains the rationale for **such** the  
4 action. The written order may be entered only after the medical  
5 director or **his** physician designee has personally seen the patient  
6 **concerned**, and evaluated **whatever** the episode or situation **is**  
7 **said to require** causing the need for restraint or isolation.  
8 Emergency use of restraints or isolation shall be for no more than  
9 **one** hour, by which time the medical director or **his** physician  
10 designee shall have been consulted and shall have entered an  
11 appropriate written order **in writing**. **Such** The written order  
12 shall be effective for no more than 24 hours and shall be renewed if  
13 restraint and isolation are continued. While in restraint or isolation,  
14 the patient must be bathed every 12 hours and checked by an  
15 attendant every **two** hours **with a notation in writing of such**  
16 **checks placed** which actions shall be noted in the patient's  
17 treatment record along with the order for restraint or isolation.

18 (4) To be free from corporal punishment.

19 e. Each patient receiving treatment pursuant to this Title, shall  
20 have the following rights, a list of which shall be prominently  
21 posted in all facilities providing **such** these services and  
22 otherwise brought to **his** the patient's attention by **such**  
23 additional means as the commissioner may designate:

24 (1) To privacy and dignity.

25 (2) To the least restrictive conditions necessary to achieve the  
26 purposes of treatment.

27 (3) To wear **his** the patient's own clothes; to keep and use  
28 **his** personal possessions including **his** toilet articles; and to  
29 keep and be allowed to spend a reasonable sum of **his own** money  
30 for canteen expenses and small purchases.

31 (4) To have access to individual storage space for **his** private  
32 use.

33 (5) To see visitors each day.

34 (6) To have reasonable access to and use of telephones, both to  
35 make and receive confidential calls.

36 (7) To have ready access to letter writing materials, including  
37 stamps, and to mail and receive unopened correspondence.

38 (8) To regular physical exercise several times a week. It shall be  
39 the duty of the hospital to provide facilities and equipment for  
40 **such** the exercise.

41 (9) To be outdoors at regular and frequent intervals, in the  
42 absence of medical considerations.

43 (10) To suitable opportunities for interaction with members of  
44 the opposite sex, with adequate supervision.

1 (11) To practice the patient's religion of **【his】** choice or abstain  
2 from religious practices. Provisions for **【such】** worship shall be  
3 made available to each person on a nondiscriminatory basis.

4 (12) To receive prompt and adequate medical treatment for any  
5 physical ailment.

6 f. Rights designated under subsection d. of this section may not  
7 be denied under any circumstances.

8 g. (1) A patient's rights designated under subsection e. of this  
9 section may be denied for good cause **【in any instance in which】**  
10 when the director of the patient's treatment program **【in which the**  
11 patient is receiving treatment】 feels it is imperative to **【deny any of**  
12 these rights】 do so; provided, however, under no circumstances  
13 shall a patient's right to communicate with **【his】** the patient's  
14 attorney, physician, or the courts be restricted. Any **【such】** denial  
15 of a patient's rights shall take effect only after a written notice of  
16 the denial has been filed in the patient's treatment record **【and shall**  
17 include】 , including an explanation of the reason for the denial.

18 (2) A denial of rights shall be effective for a period not to exceed  
19 30 days and shall be renewed for additional 30-day periods only by  
20 a written statement entered by the director of the program in the  
21 patient's treatment record **【which indicates】** indicating the detailed  
22 reason for **【such】** renewal of the denial.

23 (3) In each instance of a denial or a renewal, the patient, **【his】**  
24 the patient's attorney, **【and his】** the patient's guardian, if the patient  
25 has been adjudicated **【incompetent】** incapacitated, and the  
26 department shall be given written notice of the denial or renewal  
27 and the reason **【therefor】**.

28 h. **【Any individual】** A patient subject to this Title shall be  
29 entitled to a writ of habeas corpus upon proper petition by  
30 **【himself】** the patient, **【by】** a relative, or a friend to any court of  
31 competent jurisdiction in the county in which **【he】** the patient is  
32 detained and shall further be entitled to enforce any of the rights  
33 herein stated by civil action or other remedies otherwise available  
34 by common law or statute.

35 (cf: P.L.1975, c.85, s.2)

36  
37 80. Section 14 of P.L.1965, c.59 (C.30:4-25.2) is amended to  
38 read as follows:

39 14. Application for determination of eligibility for functional  
40 services for a person under the age of 21 years who is believed to  
41 have a developmental disability may be made to the commissioner  
42 by:

43 1. **【his】** the person's parent or guardian;

44 2. a child-caring agency, hospital, clinic, or other appropriate  
45 agency, public or private, or by a physician having care of the  
46 minor, provided the written consent of the parent or guardian or the

1 Division of Youth and Family Services, under its care and custody  
2 program, has been obtained; or

3 3. a Superior Court, Chancery Division, Family Part having  
4 jurisdiction over the minor.

5 Application for determination of eligibility for any person over  
6 18 years of age for functional services may be made by:

7 a. a person with a developmental disability over 18 years of age  
8 on **his** the person's own behalf;

9 b. the guardian of the person of an adjudicated **mentally**  
10 **incompetent** incapacitated adult; or

11 c. any court of competent jurisdiction in which the issue of  
12 mental deficiency may have arisen and which finds that it is in the  
13 interest of the person with an alleged mental deficiency to  
14 determine such eligibility.

15 (cf: P.L.2010, c.50, s.33)

16

17 81. Section 1 of 1991, c.233 (C.30:4-27.11a.) is amended to read  
18 as follows:

19 1. The Legislature finds and declares that:

20 a. It is of paramount public interest to ensure the rights of all  
21 patients in inpatient psychiatric facilities, including those persons  
22 being assessed or receiving treatment on an involuntary basis in  
23 screening services and short-term care facilities as defined in  
24 section 2 of P.L.1987, c.116 (C.30:4-27.2);

25 b. The rights set forth in section 10 of P.L.1965, c.59 (C.30:4-  
26 24.2) apply to any person who has been involuntarily committed to  
27 a State or county psychiatric hospital, a psychiatric unit of a county  
28 hospital, or a special psychiatric hospital in accordance with the  
29 laws of this State;

30 c. Because involuntary assessment and treatment in a screening  
31 service and involuntary commitment to a short-term care facility  
32 involve the deprivation of a patient's liberty, it is necessary to  
33 specify and guarantee by statute the rights to which that patient is  
34 entitled, in a manner similar to that provided for a patient who is  
35 involuntarily committed to a State or county psychiatric hospital, a  
36 psychiatric unit of a county hospital, or a special psychiatric  
37 hospital, while recognizing the administrative, structural, and  
38 staffing features of screening services and short-term care facilities  
39 which are different from State or county psychiatric hospitals,  
40 psychiatric units of county hospitals, or special psychiatric  
41 hospitals, as well as recognizing differences between the  
42 administrative, structural, and staffing features of screening services  
43 and short-term care facilities by providing a separate guarantee of  
44 rights for patients in each of these settings; and

45 d. All patients who are receiving assessment or treatment on an  
46 involuntary basis in screening services and short-term care  
47 facilities, as defined in section 2 of P.L.1987, c.116 (C.30:4-27.2),  
48 are entitled to receive professional treatment of the highest standard

1 and, unless **【incompetent】** the patient is mentally incapacitated, to  
2 participate in their treatment and discharge planning to the fullest  
3 extent possible.

4 (cf: P.L.1991, c.233, s.1)

5

6 82. Section 3 of P.L.1991, c.233 (C.30:4-27.11c) is amended to  
7 read as follows:

8 3. a. Subject to any other provisions of law and the  
9 **【Constitution】** Constitutions of New Jersey and the **【Constitution**  
10 **of the】** United States, a patient shall not be deprived of a civil right  
11 solely by reason of **【his】** receiving assessment or treatment under  
12 the provisions of P.L.1987, c.116 (C.30:4-27.1 et seq.), nor shall the  
13 assessment or treatment modify or vary a legal or civil right of that  
14 patient, including, but not limited to, the right to register for and to  
15 vote at elections, or rights relating to the granting, forfeiture, or  
16 denial of a license, permit, privilege, or benefit pursuant to any law.

17 b. A patient shall be entitled to all rights set forth in this act and  
18 shall retain all rights not specifically denied **【him】** under P.L.1987,  
19 c.116 (C.30:4-27.1 et seq.) and P.L.1989, c.170 (C.26:2H-12.7 et  
20 seq.).

21 c. A patient shall not be presumed to be **【incompetent】** mentally  
22 incapacitated solely because **【he has been examined】** of an  
23 examination or **【treated】** treatment for mental illness.

24 d. A patient shall be entitled to a writ of habeas corpus upon  
25 proper petition by **【himself】** the patient, a relative, or a friend to a  
26 court of competent jurisdiction in the county in which **【he】** the  
27 patient is detained and shall further be entitled to enforce, by civil  
28 action or other remedies otherwise available by common law or  
29 statute, any of the rights provided in **【this act】** P.L.1991, c.233  
30 (C.30:4-27.11a et seq.).

31 (cf: P.L.1991, c.233, s.3)

32

33 83. Section 4 of P.L.1991, c.233 (C.30:4-27.11d) is amended to  
34 read as follows:

35 4. a. A patient in a short-term care facility shall have the  
36 following rights, which shall not be denied under any  
37 circumstances. A list of these rights shall be posted in a  
38 conspicuous place in each room designated for use by a patient and  
39 otherwise brought to the patient's attention pursuant to subsection d.  
40 of this section:

41 (1) To be free from unnecessary or excessive medication.  
42 Medication shall not be administered unless at the written or verbal  
43 order of a physician. A verbal order shall be valid only for a period  
44 of 24 hours, after which a written order for the medication shall be  
45 completed. At least weekly, the attending physician shall review  
46 the drug regimen of each patient under **【his】** the physician's care.  
47 Medication shall be administered in accordance with generally

1 accepted medical standards as part of a treatment program.  
2 Medication shall not be used as punishment, for the convenience of  
3 staff, as a substitute for a treatment program, or in quantities that  
4 interfere with the patient's treatment program.

5 In an emergency in which less restrictive or appropriate  
6 alternatives acceptable to the patient are not available to prevent  
7 imminent danger to the patient or others, medication may be  
8 administered over a patient's objection at the written order of a  
9 physician, which shall be valid for a period of up to 72 hours, in  
10 order to lessen the danger.

11 A patient's right to refuse medication when imminent danger to  
12 the patient or others is not present may be overridden by a written  
13 policy which has been adopted by the short-term care facility to  
14 protect the patient's right to exercise informed consent to the  
15 administration of medication. The written policy shall, at a  
16 minimum, provide for appropriate procedures that ensure notice to  
17 the patient of the decision by the attending physician or other  
18 designated physician to administer medication, and the right to  
19 question the physician about **【his】** the physician's decision to  
20 administer medication and to provide information to the physician  
21 regarding that decision. The written policy shall also provide for  
22 review of the patient's decision to object to the administration of  
23 medication by a psychiatrist who is not directly involved in the  
24 patient's treatment. The psychiatrist shall not override the patient's  
25 decision to object to the administration of medication unless the  
26 psychiatrist determines that: the patient is incapable, without  
27 medication, of participating in a treatment plan that will provide a  
28 realistic opportunity of improving **【his】** the patient's condition; or,  
29 although it is possible to devise a treatment plan that will provide a  
30 realistic opportunity of improving the patient's condition without  
31 medication, a treatment plan which includes medication would  
32 probably improve the patient's condition within a significantly  
33 shorter time period, or there is a significant possibility that, without  
34 medication, the patient will harm himself or others before  
35 improvement of **【his】** the patient's condition is realized.

36 An adult who has been voluntarily committed to a short-term  
37 care facility shall have the right to refuse medication.

38 (2) Not to be subjected to psychosurgery or sterilization, without  
39 the express and informed, written consent of the patient after  
40 consultation with counsel or interested party of the patient's choice.  
41 A copy of the patient's consent shall be placed in the patient's  
42 treatment record. If the patient has been adjudicated **【incompetent】**  
43 incapacitated, a court of competent jurisdiction shall hold a hearing  
44 to determine the necessity of the procedure. The patient shall be  
45 physically present at the hearing, represented by counsel, and  
46 provided the right and opportunity to be confronted with and to  
47 cross-examine all witnesses alleging the necessity of the procedure.  
48 In these proceedings, the burden of proof shall be on the party

1 alleging the necessity of the procedure. In the event that a patient  
2 cannot afford counsel, the court shall appoint an attorney not less  
3 than 10 days before the hearing. An attorney so appointed shall be  
4 entitled to a reasonable fee to be determined by the court and paid  
5 by the State.

6 (3) To be free from unnecessary physical restraint and seclusion.  
7 Except for an emergency in which a patient has caused substantial  
8 property damage or has attempted to harm himself or others, or in  
9 which **【his】** the patient's behavior threatens to harm himself or  
10 others, and in which less restrictive means of restraint are not  
11 feasible, a patient may be physically restrained or placed in  
12 seclusion only on an attending physician's written order or that of  
13 another designated physician which explains the rationale for that  
14 action. The written order may be given only after the attending  
15 physician or other designated physician has personally seen the  
16 patient, and evaluated the episode or situation that is said to require  
17 restraint or seclusion.

18 In an emergency, the use of restraints or seclusion may be  
19 initiated by a registered professional nurse and shall be for no more  
20 than one hour. Within that hour, the nurse shall consult with the  
21 attending physician or other designated physician and, if continued  
22 restraint or seclusion is determined to be necessary, shall obtain an  
23 order from the attending physician or other designated physician to  
24 continue the use of restraints or seclusion. If an order is given, the  
25 patient shall be reevaluated by the nurse or the attending physician  
26 or other designated physician as to the patient's physical and  
27 psychiatric condition and the need for continuing the restraints or  
28 seclusion at least every two hours until the use of restraints or  
29 seclusion has ended.

30 The patient's attending physician or other designated physician  
31 shall enter a written order approving the continued use of restraints  
32 or seclusion no later than 24 hours after the time that physical  
33 restraint or seclusion began, and only after the physician has  
34 personally seen the patient. A written order by the physician for the  
35 continued use of restraints or seclusion shall be effective for no  
36 more than 24 hours and shall be renewed if restraint and seclusion  
37 are continued. A medical examination of the patient shall be  
38 conducted every 12 hours by a physician.

39 While a patient is in restraints or seclusion, nursing personnel  
40 shall check the patient's hygienic, toileting, food-related, and other  
41 needs every 15 minutes. A notation of these checks shall be placed  
42 in the patient's medical record along with the order for restraints or  
43 seclusion. A patient in restraints shall be permitted to ambulate  
44 every four hours, except when the patient's psychiatric condition  
45 would make a release from restraints dangerous to **【himself】** the  
46 patient or others, and shall be permitted to ambulate at least once  
47 every 12 hours regardless of the patient's psychiatric condition.

48 (4) To be free from any form of punishment.

1 (5) Not to receive electroconvulsive treatment or participate in  
2 experimental research without the express and informed, written  
3 consent of the patient. The patient shall have the right to consult  
4 with counsel or interested party of the patient's choice. A copy of  
5 the patient's consent shall be placed in the patient's treatment  
6 record. If the patient has been adjudicated **【incompetent】**  
7 incapacitated, a court of competent jurisdiction shall hold a hearing  
8 to determine the necessity of the procedure. The patient shall be  
9 physically present at the hearing, represented by counsel, and  
10 provided the right and opportunity to be confronted with and to  
11 cross-examine all witnesses alleging the necessity of the procedure.  
12 In these proceedings, the burden of proof shall be on the party  
13 alleging the necessity of the procedure. In the event that a patient  
14 cannot afford counsel, the court shall appoint an attorney not less  
15 than 10 days before the hearing. An attorney so appointed shall be  
16 entitled to a reasonable fee to be determined by the court and paid  
17 by the State.

18 b. A patient receiving treatment in a short-term care facility  
19 shall have the following rights, which may only be denied pursuant  
20 to subsection c. of this section. A list of these rights shall be posted  
21 in a conspicuous place in each room designated for use by a patient  
22 and otherwise brought to the patient's attention pursuant to  
23 subsection d. of this section:

24 (1) To privacy and dignity.

25 (2) To the least restrictive conditions necessary to achieve the  
26 purposes of treatment.

27 (3) To wear **【his】** the patient's own clothes; to have access to  
28 and use **【his】** nondangerous personal possessions including **【his】**  
29 toilet articles; and to have access to and be allowed to spend a  
30 reasonable sum of **【his own】** money for expenses and small  
31 purchases.

32 (4) To have access to individual storage space for **【his】** private  
33 use.

34 (5) To see visitors each day.

35 (6) To have reasonable access to and use of telephones, both to  
36 make and receive confidential calls.

37 (7) To have ready access to letter writing materials, including  
38 stamps, and to mail and receive unopened correspondence.

39 (8) To regular physical exercise or organized physical activities  
40 several times a week.

41 (9) To be outdoors at regular and frequent intervals, in the  
42 absence of medical considerations, commencing two weeks after  
43 admission, except where the physical location of the short-term care  
44 facility precludes outdoor exercise or would render the supervision  
45 of outdoor exercise too onerous for the facility.

46 (10) To suitable opportunities for interaction with members of  
47 the opposite sex, with adequate supervision.



1 (11) To practice the patient's religion of **【his】** choice or abstain  
2 from religious practices. Provisions for worship shall be made  
3 available to each patient on a nondiscriminatory basis.

4 (12) To receive prompt and adequate medical treatment for any  
5 physical ailment.

6 (13) To be provided with a reasonable explanation, in terms and  
7 language appropriate to the patient's condition and ability to  
8 understand, of:

9 (a) the patient's general mental and physical condition;

10 (b) the objectives of the patient's treatment;

11 (c) the nature and significant possible adverse effects of  
12 recommended treatments;

13 (d) the reasons why a particular treatment is considered  
14 appropriate; and

15 (e) the reasons for the denial of any of the patient's rights  
16 pursuant to subsection c. of this section.

17 c. (1) A patient's rights designated under subsection b. of this  
18 section may be denied only for good cause when the attending  
19 physician feels it is imperative to deny any of these rights; except  
20 that, under no circumstances shall a patient's right to communicate  
21 with **【his】** the patient's attorney, physician, or the courts be  
22 restricted. The denial of a patient's rights shall take effect only after  
23 a copy of the written notice of the denial has been filed in the  
24 patient's treatment record and shall include an explanation of the  
25 reason for the denial.

26 (2) A denial of rights shall be effective for a period not to  
27 exceed 10 days and shall be renewed for additional 10-day periods  
28 only by a written statement entered by the attending physician or  
29 other designated physician in the patient's treatment record **【which**  
30 **indicates】** indicating the detailed reason for the renewal of the  
31 denial.

32 (3) In each instance of a denial or a renewal, the patient, **【his】**  
33 the patient's attorney, and **【his】** the patient's guardian, if the patient  
34 has been adjudicated **【incompetent】** incapacitated, shall be given  
35 written notice of the denial or renewal and the reason **【therefor】**.

36 d. A notice of the rights set forth in this section shall be given to  
37 a patient in a short-term care facility upon admission. The notice  
38 shall be **【in writing and】** written in simple understandable language.  
39 It shall be in a language the patient understands and if the patient  
40 cannot read the notice, it shall be read to **【him】** the patient. **【In the**  
41 **case of an】** If a patient is adjudicated **【incompetent patient, this**  
42 **procedure shall be followed for the】** incapacitated, the notice shall  
43 be given to the patient's guardian. Receipt of this notice shall be  
44 acknowledged in writing with a copy placed in the patient's file. If  
45 the patient or guardian refuses to acknowledge receipt of the notice,  
46 the person delivering the notice shall state this in writing, with a  
47 copy placed in the patient's file.

1 (cf: P.L.1991, c.233, s.4)

2

3 84. Section 5 of P.L.1991, c.233 (30:4-27.11e) is amended to  
4 read as follows:

5 5. a. A patient in a screening service shall have the following  
6 rights, which shall apply during the first 24 hours of involuntary  
7 assessment and care provided at a screening service and which shall  
8 not be denied under any circumstances. A list of these rights shall  
9 be posted in a conspicuous place in the screening service and  
10 otherwise brought to the patient's attention pursuant to subsection d.  
11 of this section:

12 (1) To be free from unnecessary or excessive medication.  
13 Medication shall not be administered unless at the order of a  
14 physician. Medication shall be administered in accordance with  
15 generally accepted medical standards as part of a treatment  
16 program. Medication shall not be used as punishment, for the  
17 convenience of staff, as a substitute for a treatment program, or in  
18 quantities that interfere with the patient's treatment program.

19 In an emergency in which less restrictive or appropriate  
20 alternatives acceptable to the patient are not available to prevent  
21 imminent danger to the patient or others, medication may be  
22 administered over a patient's objection at the written order of a  
23 physician, which shall be valid for a period of up to 24 hours, in  
24 order to lessen the danger.

25 (2) Not to be subjected to experimental research, psychosurgery,  
26 or sterilization, without the express and informed, written consent  
27 of the patient. The patient shall have the right to consult with  
28 counsel or interested party of the patient's choice. A copy of the  
29 patient's consent shall be placed in the patient's treatment record.

30 (3) To be free from unnecessary physical restraint and seclusion.  
31 Except for an emergency, in which a patient has caused substantial  
32 property damage or has attempted to harm himself or others, or in  
33 which **his** the patient's behavior threatens to harm himself or  
34 others, and in which less restrictive means of restraint are not  
35 feasible, a patient may be physically restrained or placed in  
36 seclusion only on an attending physician's written order or that of  
37 another designated physician which explains the rationale for that  
38 action. The written order may be given only after the attending  
39 physician or other designated physician has personally seen the  
40 patient, and evaluated the episode or situation that is said to require  
41 restraint or seclusion.

42 In an emergency, the use of restraints or seclusion may be  
43 initiated by a registered professional nurse and shall be for no more  
44 than one hour. Within that hour, the nurse shall consult with the  
45 attending physician or other designated physician and, if continued  
46 restraint or seclusion is determined to be necessary, shall obtain an  
47 order from the physician to continue the use of restraints or  
48 seclusion. If an order is given, the patient shall be reevaluated by

1 the nurse or the attending physician or other designated physician as  
2 to the patient's physical and psychiatric condition and the need for  
3 continuing the restraints or seclusion at least every two hours until  
4 the use of restraints or seclusion has ended.

5 The patient's attending physician or other designated physician  
6 shall enter a written order approving the continued use of restraints  
7 or seclusion no later than 12 hours after the time that physical  
8 restraint or seclusion began, after the physician has personally seen  
9 the patient. A written order by the physician for the continued use  
10 of restraints or seclusion shall be effective for no more than 24  
11 hours and shall be renewed if restraint and seclusion are continued.  
12 A medical examination of the patient shall be conducted every 12  
13 hours by a physician.

14 While a patient is in restraints or seclusion, nursing personnel  
15 shall check the patient's hygienic, toileting, food-related, and other  
16 needs every 15 minutes. A notation of these checks shall be placed  
17 in the patient's medical record along with the order for restraints or  
18 seclusion. A patient in restraints shall be permitted to ambulate  
19 every four hours, except when the patient's psychiatric condition  
20 would make a release from restraints dangerous to **【himself】** the  
21 patient or others, and shall be permitted to ambulate at least once  
22 every 12 hours regardless of the patient's psychiatric condition.

23 (4) To be free from any form of punishment.

24 b. A patient receiving treatment in a screening service shall have  
25 the following rights, which may only be denied pursuant to  
26 subsection c. of this section. A list of these rights shall be posted in  
27 a conspicuous place in the screening service and otherwise brought  
28 to the patient's attention pursuant to subsection d. of this section:

29 (1) To privacy and dignity.

30 (2) To the least restrictive conditions necessary to achieve the  
31 purposes of treatment.

32 (3) To wear **【his】** the patient's own clothes, except as necessary  
33 for medical examination.

34 (4) To see visitors.

35 (5) To have reasonable access to and use of telephones, both to  
36 make and receive confidential calls.

37 (6) To practice the patient's religion of **【his】** choice or abstain  
38 from religious practices.

39 (7) To receive prompt and adequate medical treatment for any  
40 physical ailment.

41 (8) To be provided with a reasonable explanation, in terms and  
42 language appropriate to the patient's condition and ability to  
43 understand, of:

44 (a) the patient's general mental condition, and **【his】** physical  
45 condition if the screening service has conducted a physical  
46 examination of the patient;

47 (b) the objectives of the patient's treatment;

1 (c) the nature and significant possible adverse effects of  
2 recommended treatments;

3 (d) the reasons why a particular treatment is considered  
4 appropriate; and

5 (e) the reasons for the denial of any of the patient's rights  
6 pursuant to subsection c. of this section.

7 (9) To have a discharge plan prepared **【for him】** and to  
8 participate in the preparation of that plan.

9 c. (1) A patient's rights designated under subsection b. of this  
10 section may be denied only for good cause when the attending  
11 physician feels it is imperative to deny any of these rights; except  
12 that, under no circumstances shall a patient's right to communicate  
13 with **【his】** the patient's attorney, physician, or the courts be  
14 restricted. The denial of a patient's rights shall take effect only after  
15 a copy of the written notice of the denial has been filed in the  
16 patient's treatment record and shall include an explanation of the  
17 reason for the denial.

18 (2) A denial of rights shall be effective only for the period of  
19 time that the patient is in the screening service.

20 d. A notice of the rights set forth in this section shall be given to  
21 a patient as soon as possible upon admission to the screening  
22 service. The notice shall be **【in writing and】** written in simple  
23 understandable language. It shall be in a language the patient  
24 understands and if the patient cannot read the notice, it shall be read  
25 to **【him】** the patient. **【In the case of an】** If the patient is  
26 adjudicated 【incompetent patient, this procedure shall be followed  
27 for】 incapacitated, the notice shall be given to the patient's  
28 guardian. Receipt of this notice shall be acknowledged in writing  
29 with a copy placed in the patient's file. If the patient or guardian  
30 refuses to acknowledge receipt of the notice, the person delivering  
31 the notice shall state this in writing with a copy placed in the  
32 patient's file.

33 (cf: P.L.1991, c.233, s.5)

34

35 85. R.S.30:4-101 is amended to read as follows:

36 30:4-101. **【In】** Married, domestic partnership, or civil union  
37 couples who are residents of a public institution maintained in  
38 whole or in part by the State, or a county, municipality, or  
39 subdivision thereof, **【married couples, inmates of the same**  
40 **institution,】** shall not be **【separated or】** maintained in separate  
41 quarters. This provision shall not apply to institutions for persons  
42 with mental illness or developmental disabilities, or to correctional  
43 institutions or **【to cases】** where the health or mental condition of  
44 the persons concerned warrants separation.

45 (cf: P.L.2010, c.50, s.42)

46

1       86. Section 10 of P.L.1985, c.133 (C.30:4-165.15) is amended to  
2 read as follows:

3       10. a. Whenever the commissioner believes that guardianship is  
4 no longer required or that another person should be appointed to  
5 serve as guardian, **[he]** the commissioner shall apply to the  
6 Superior Court for an order modifying or terminating the letters of  
7 guardianship. Where someone other than the commissioner is  
8 serving as guardian, notice shall be provided to that person.

9       b. At least once every three years, the commissioner shall  
10 review the case of each person who receives functional or other  
11 services and who has a guardian.

12       c. The Public Defender, the **[incompetent]** incapacitated person,  
13 or someone acting **[in his]** on behalf of the incapacitated person  
14 may institute a similar action for judicial review at any time.

15       d. In cases where the commissioner serves as guardian, the  
16 Public Defender shall be given notice of any actions taken pursuant  
17 to subsection a. or b. of this section. The Public Defender shall be  
18 given an opportunity to meet the person subject to review and  
19 inspect the commissioner's records.

20 (cf: P.L.1994, c.58, s.49)

21

22       87. Section 7 of P.L.1946, c.118 (C.30:4A-7) is amended to read  
23 as follows:

24       7. If the person for whom the diagnosis is sought by any court or  
25 agency of the State, **[or of a]** county, or municipal government,  
26 desiring to utilize the services of the diagnostic center, is not under  
27 confinement or process **[of any nature whatsoever]**, then admission  
28 to the diagnostic center shall be secured upon application to the  
29 Superior Court upon forms to be provided by the Department of  
30 Human Services. The county adjuster shall be the official **[in the**  
31 **county]** charged with the responsibility of assisting with processing  
32 of **[such]** the applications and shall perform functions similar to  
33 those set forth in Title 30**[,]** of the Revised Statutes. In connection  
34 with each **[such]** application, the court shall order a hearing to be  
35 held, which may be in camera at the discretion of the court. At least  
36 **[ten]** 10 days' notice of the time, date, and place of **[such]** the  
37 hearing shall be served upon the person, and if **[he be]** a minor or  
38 **[incompetent]** a person who is incapacitated, upon the parent,  
39 guardian, person standing in loco parentis, or person having custody  
40 and control of **[such]** the minor or **[incompetent]** person who is  
41 incapacitated. At **[such]** the hearing, the court shall determine  
42 whether the services of the diagnostic center shall be made  
43 available to the **[said]** person and may order the person's  
44 confinement **[of such person]** in the center for a period not to  
45 exceed **[ninety]** 90 days **[and shall cause a copy of said order of**

1 confinement to accompany the said person] , which order shall be  
2 provided to the center.

3 (cf: P.1991, c.91, s.324)

4

5 88. Section 17 of P.L.1968, c.413 (C.30:4D-17) is amended to  
6 read as follows:

7 17. (a) Any person who willfully obtains benefits under **[this**  
8 **act]** P.L.1968, c.413 (C.30:4D-1 et seq.) to which **[he]** a person is  
9 not entitled or in a greater amount than that to which **[he]** a person  
10 is entitled and any provider who willfully receives medical  
11 assistance payments to which **[he]** a provider is not entitled or in a  
12 greater amount than that to which **[he]** a provider is entitled is  
13 guilty of a crime of the third degree, provided, however, that the  
14 presumption of nonimprisonment set forth in subsection e. of  
15 N.J.S.2C:44-1 for persons who have not previously been convicted  
16 of an offense shall not apply to a person who is convicted under the  
17 provisions of this subsection.

18 (b) Any provider, or any person, firm, partnership, corporation,  
19 or entity, who:

20 (1) Knowingly and willfully makes or causes to be made any  
21 false statement or representation of a material fact in any cost study,  
22 claim form, or any document necessary to apply for or receive any  
23 benefit or payment under **[this act]** P.L.1968, c.413; or

24 (2) At any time knowingly and willfully makes or causes to be  
25 made any false statement, written or oral, of a material fact for use  
26 in determining rights to such benefit or payment under **[this act]**  
27 P.L.1968, c.413; or

28 (3) Conceals or fails to disclose the occurrence of an event  
29 which

30 (i) affects **[his]** a person's initial or continued right to any such  
31 benefit or payment, or

32 (ii) affects the initial or continued right to any such benefit or  
33 payment of any provider or any person, firm, partnership,  
34 corporation, or other entity in whose behalf **[he]** a person has  
35 applied for or is receiving such benefit or payment with an intent to  
36 fraudulently secure benefits or payments not authorized under **[this**  
37 **act]** P.L.1968, c.413 or in a greater amount than that which is  
38 authorized under **[this act]** P.L.1968, c.413; or

39 (4) Knowingly and willfully converts benefits or payments or  
40 any part thereof received for the use and benefit of any provider or  
41 any person, firm, partnership, corporation, or other entity to a use  
42 other than the use and benefit of such provider or such person, firm,  
43 partnership, corporation, or entity; is guilty of a crime of the third  
44 degree, provided, however, that the presumption of  
45 nonimprisonment set forth in subsection e. of N.J.S.2C:44-1 for  
46 persons who have not previously been convicted of an offense shall

1 not apply to a person who is convicted under the provisions of this  
2 subsection.

3 (c) Any provider, or any person, firm, partnership, corporation,  
4 or entity who solicits, offers, or receives any kickback, rebate, or  
5 bribe in connection with:

6 (1) The furnishing of items or services for which payment is or  
7 may be made in whole or in part under **[this act] P.L.1968, c.413;**  
8 or

9 (2) The furnishing of items or services whose cost is or may be  
10 reported in whole or in part in order to obtain benefits or payments  
11 under **[this act] P.L.1968, c.413;** or

12 (3) The receipt of any benefit or payment under this act, is guilty  
13 of a crime of the third degree, provided, however, that the  
14 presumption of nonimprisonment set forth in subsection e. of  
15 N.J.S.2C:44-1 for persons who have not previously been convicted  
16 of an offense shall not apply to a person who is convicted under the  
17 provisions of this subsection.

18 This subsection shall not apply to (A) a discount or other  
19 reduction in price under **[this act] P.L.1968, c.413** if the reduction  
20 in price is properly disclosed and appropriately reflected in the  
21 costs claimed or charges made under **[this act] P.L.1968, c.413;**  
22 and (B) any amount paid by an employer to an employee who has a  
23 bona fide employment relationship with such employer for  
24 employment in the provision of covered items or services.

25 (d) Whoever knowingly and willfully makes or causes to be  
26 made or induces or seeks to induce the making of any false  
27 statement or representation of a material fact with respect to the  
28 conditions or operations of any institution or facility in order that  
29 such institution or facility may qualify either upon initial  
30 certification or recertification as a hospital, skilled nursing facility,  
31 intermediate care facility, or health agency, thereby entitling them  
32 to receive payments under **[this act] P.L.1968, c.413,** shall be  
33 guilty of a crime of the fourth degree.

34 (e) Any person, firm, corporation, partnership, or other legal  
35 entity who violates the provisions of any of the foregoing  
36 subsections of this section or any provisions of section 3 of  
37 P.L.2007, c.265 (C.2A:32C-3), shall, in addition to any other  
38 penalties provided by law, be liable to civil penalties of: (1)  
39 payment of interest on the amount of the excess benefits or  
40 payments at the maximum legal rate in effect on the date the  
41 payment was made to said person, firm, corporation, partnership or  
42 other legal entity for the period from the date upon which payment  
43 was made to the date upon which repayment is made to the State**[,]**  
44 ; (2) payment of an amount not to exceed three-fold the amount of  
45 such excess benefits or payments**[,] ;** and (3) payment in the sum of  
46 not less than and not more than the civil penalty allowed under the  
47 federal False Claims Act (31 U.S.C. s.3729 et seq.), as it may be

1 adjusted for inflation pursuant to the Federal Civil Penalties  
2 Inflation Adjustment Act of 1990, Pub.L.101-410 for each  
3 excessive claim for assistance, benefits or payments.

4 (f) Any person, firm, corporation, partnership, or other legal  
5 entity, other than an individual recipient of medical services  
6 reimbursable by the Division of Medical Assistance and Health  
7 Services, who, without intent to violate **[this act]** P.L.1968, c.413,  
8 obtains medical assistance or other benefits or payments under **[this**  
9 **act]** P.L.1968, c.413 in excess of the amount to which he is entitled,  
10 shall be liable to a civil penalty of payment of interest on the  
11 amount of the excess benefits or payments at the maximum legal  
12 rate in effect on the date the benefit or payment was made to said  
13 person, firm, corporation, partnership, or other legal entity for the  
14 period from September 15, 1976 or the date upon which payment  
15 was made, whichever is later, to the date upon which repayment is  
16 made to the State, provided, however, that no such person, firm,  
17 corporation, partnership, or other legal entity shall be liable to such  
18 civil penalty when excess medical assistance or other benefits or  
19 payments under this act are obtained by such person, firm,  
20 corporation, partnership, or other legal entity as a result of error  
21 made by the Division of Medical Assistance and Health Services, as  
22 determined by said division; provided, further, that if preliminary  
23 notification of an overpayment is not given to a provider by the  
24 division within 180 days after completion of the field audit as  
25 defined by regulation, no interest shall accrue during the period  
26 beginning 180 days after completion of the field audit and ending  
27 on the date preliminary notification is given to the provider.

28 (g) All interest and civil penalties provided for in **[this act]**  
29 P.L.1968, c.413 and all medical assistance and other benefits to  
30 which a person, firm, corporation, partnership, or other legal entity  
31 was not entitled shall be recovered in an administrative proceeding  
32 held pursuant to the "Administrative Procedure Act," P.L.1968,  
33 c.410 (C.52:14B-1 et seq.), except that recovery actions against  
34 minors or **[incompetents]** incapacitated persons shall be initiated in  
35 a court of competent jurisdiction.

36 (h) Upon the failure of any person, firm, corporation,  
37 partnership, or other legal entity to comply within 10 days after  
38 service of any order of the director or **[his]** the director's designee  
39 directing payment of any amount found to be due pursuant to  
40 subsection (g) of this section, or at any time prior to any final  
41 agency adjudication not involving a recipient or former recipient of  
42 benefits under **[this act]** P.L.1968, c.413, the director may issue a  
43 certificate to the clerk of the Superior Court that such person, firm,  
44 corporation, partnership, or other legal entity is indebted to the  
45 State for the payment of **[such]** the amount. A copy of such  
46 certificate shall be served upon the person, firm, corporation,  
47 partnership, or other legal entity against whom the order was



1 entered. Thereupon the clerk shall immediately enter upon **【his】**  
2 the record of docketed judgments the name of the person, firm,  
3 corporation, partnership, or other legal entity so indebted, and of the  
4 State, a designation of the statute under which such amount is found  
5 to be due, the amount due, and the date of the certification. Such  
6 entry shall have the same force and effect as the entry of a docketed  
7 judgment in the Superior Court. Such entry, however, shall be  
8 without prejudice to the right of appeal to the Appellate Division of  
9 the Superior Court from the final order of the director or **【his】** the  
10 director's designee.

11 (i) In order to satisfy any recovery claim asserted against a  
12 provider under this section, whether or not that claim has been the  
13 subject of final agency adjudication, the division or its fiscal agents  
14 is authorized to withhold funds otherwise payable under **【this act】**  
15 P.L.1968, c.413 to the provider.

16 (j) The Attorney General may, when requested by the  
17 commissioner or **【his】** the commissioner's agent, apply ex parte to  
18 the Superior Court to compel any party to comply forthwith with a  
19 **【subpena】** subpoena issued under **【this act】** P.L.1968, c.413. Any  
20 party who, having been served with a **【subpena】** subpoena issued  
21 pursuant to the provisions of **【this act】** P.L.1968, c.413, fails either  
22 to attend any hearing, or to appear or be examined, to answer any  
23 question or to produce any books, records, accounts, papers or  
24 documents, shall be liable to a penalty of **【\$500.00】** \$500 for each  
25 such failure, to be recovered in the name of the State in a summary  
26 civil proceeding to be initiated in the Superior Court. The Attorney  
27 General shall prosecute the actions for the recovery of the penalty  
28 prescribed in this section when requested to do so by the  
29 commissioner or **【his】** the commissioner's agent and when, in the  
30 judgment of the Attorney General, the facts and law warrant such  
31 prosecution. Such failure on the part of the party shall be  
32 punishable as contempt of court by the court in the same manner as  
33 like failure is punishable in an action pending in the court when the  
34 matter is brought before the court by motion filed by the Attorney  
35 General and supported by affidavit stating the circumstances.

36 (k) Notwithstanding the provisions of N.J.S.2C:43-3 to the  
37 contrary, but in addition to any other penalty or disposition that may  
38 be imposed by law:

39 (1) a person who violates the provisions of subsection (a), (b), or  
40 (c) of this section shall be liable to a penalty of not less than  
41 \$15,000 and not more than \$25,000 for each violation; and

42 (2) a person who violates the provisions of subsection (d) of this  
43 section shall be liable to a penalty of not less than \$10,000 and not  
44 more than \$25,000 for each violation.

45 (l) A person who violates the provisions of subsection (a), (b),  
46 or (c) of this section under circumstances in which the aggregate  
47 amount obtained or sought to be obtained is \$1,000 or more, who

1 has previously been convicted of a violation of the provisions of  
2 subsection (a), (b), or (c) of this section within 10 years of the  
3 current violation, under circumstances where the aggregate amount  
4 obtained or sought to be obtained was \$1,000 or more, is guilty of a  
5 crime of the second degree and, in addition to any other penalty or  
6 disposition authorized by law and notwithstanding the provisions of  
7 N.J.S.2C:43-3 to the contrary, shall be liable to a penalty of not less  
8 than \$25,000 and not more than \$150,000 for each such repeat  
9 violation.

10 (cf: P.L.2010, c.30, s.2)

11  
12 89. Section 1 of P.L.1952, c.76 (C.30:6B-1) is amended to read  
13 as follows:

14 1. **【Whenever,】** If it is determined in **【any】** a proceeding in  
15 **【any】** a court of competent jurisdiction **【or before a judicial officer,**  
16 **having jurisdiction thereof, under the laws of this State】** for the  
17 commitment of a person alleged to be **【of unsound mind】** mentally  
18 incapacitated or otherwise in need of confinement in a psychiatric  
19 hospital or other institution for **【his】** the person's proper care, **【it is**  
20 **determined after such adjudication of the status of such person as**  
21 **may be required by law that commitment to a hospital for mental**  
22 **disease or other institution】** treatment, or safekeeping, that  
23 commitment is necessary **【for safekeeping or treatment and it**  
24 **appears that such】** and that the person is eligible for care or  
25 treatment by the Department of Veterans **【Administration】** Affairs  
26 or other agency of the United States **【Government, the said court or**  
27 **judicial officer】**, the court may commit the person to the  
28 Department of Veterans Affairs or other agency instead of to a State  
29 institution, upon receipt of a certificate from the Department of  
30 Veterans **【Administration】** Affairs or **【such】** other agency showing  
31 that facilities are available and that **【such】** the person is eligible for  
32 care or treatment therein, **【may,】** subject to the provisions of this  
33 act **【, commit such person to said Veterans Administration or other**  
34 **agency instead of to an institution of this State】**.

35 Upon **【any such】** commitment, **【such person,】** and when  
36 admitted to **【any】** a facility operated by any such agency **【within or**  
37 **without this State】**, the person shall be subject to the rules and  
38 regulations of the Department of Veterans **【Administration】** Affairs  
39 or other agency. The chief officer of **【any】** a facility of the  
40 Department of Veterans **【Administration】** Affairs or institution  
41 operated by **【any】** the other agency **【of the United States】** to which  
42 the person is **【so】** committed shall, with respect to **【such person】**  
43 the retention of the person's custody, transfer, parole, or discharge,  
44 be vested with the same powers as that of the chief officer of a State  
45 institution **【would have】** if **【such】** the person had been committed

1 to a State institution[, with respect to the retention of custody,  
2 transfer, parole or discharge of such person].

3 (cf: P.L.1952, c.76, s.1)

4

5 90. Section 4 of P.L.1952, c.76 (C.30:6B-4) is amended to read  
6 as follows:

7 4. Upon receipt of a certificate of the Department of Veterans  
8 **[Administration] Affairs** or **[such]** other agency of the United  
9 States that facilities are available for the care or treatment of **[any]**  
10 a person **[heretofore]** committed to **[any hospital] an institution** for  
11 the **[insane or other institution for the care or treatment of persons**  
12 **similarly afflicted] care and treatment of persons who are mentally**  
13 **incapacitated** and that **[such] the** person is eligible for care or  
14 treatment, the chief officer of the institution may, subject to the  
15 approval of the Commissioner of **[Institutions and Agencies]**  
16 Human Services or of the court **[or judicial officer]** having  
17 jurisdiction **[of such] over the** person, **[cause the]** transfer **[of**  
18 **such] the** person to the Department of Veterans [Administration]  
19 Affairs or other agency **[of the United States]** for care or treatment.

20 **[Any] A** person transferred as provided in this section shall be  
21 deemed **[to be]** committed to the Department of Veterans  
22 **[Administration] Affairs** or other agency **[of the United States]**,  
23 pursuant to the original commitment.

24 (cf: P.L.1957, c.138, s.1)

25

26 91. Section 4 of P.L.1977, c.82 (C.30:6D-4) is amended to read  
27 as follows:

28 4. No **[developmentally disabled] person with a developmental**  
29 **disability** shall be presumed to be **[incompetent] incapacitated** or  
30 shall be discriminated against or shall be deprived of any  
31 constitutional, civil, or legal right solely by reason of admission to  
32 or residence at a facility or solely by reason of receipt of any  
33 service for **[developmentally disabled] persons with developmental**  
34 **disabilities**. No such admission, residence, or receipt of services  
35 shall modify or vary any constitutional, civil, or legal right of  
36 **[such] the** person, including, but not necessarily limited to**[:]** , the  
37 right to:

38 a. Register and vote at elections;

39 b. Free exercise of religion;

40 c. Receive and send unopened correspondence and, upon  
41 request, to obtain assistance in the writing and reading of **[such]**  
42 that correspondence;

43 d. Private visitations and private telephone conversations  
44 without prior notice to the facility during **[such]** reasonable hours  
45 as may be established by the facility with parents, guardians,

1 representatives of guardian services, relatives, friends, physicians,  
2 attorneys, government officials, and any other persons;

3 e. Reasonable opportunities for interaction with members of the  
4 opposite sex;

5 f. Confidential handling of personal and medical records.

6 (cf: P.L.1977, c.82, s 4)

7

8 92. Section 5 of P.L.1977, c.82 (C.30:6D-5) is amended to read  
9 as follows:

10 5. a. No person receiving services for **【the developmentally**  
11 **disabled】** persons with developmental disabilities at any facility  
12 shall:

13 (1) be subjected to any corporal punishment;

14 (2) be administered any medication or chemical restraint, except  
15 upon the written authorization of a physician when necessary and  
16 appropriate as an element of the service being received or as a  
17 treatment of any medical or physical condition in conformity with  
18 accepted standards for **【such】** that treatment. The nature, amount  
19 of, and reasons for the administration of any medication or chemical  
20 restraint shall be promptly recorded in **【such】** the person's medical  
21 record; or

22 (3) be physically or chemically restrained or isolated in any  
23 manner, except in emergency situations for the control of violent,  
24 disturbed, or depressed behavior which may immediately result in  
25 or has resulted in harm to **【such】** the person or other person or in  
26 substantial property damage.

27 The chief administrator of the facility, or **【his】** the chief  
28 administrator's designee, shall be notified immediately upon the  
29 application of any **【such】** restraint or isolation, and thereafter  
30 **【such】** the restraint or isolation shall be continued only upon the  
31 written order of the administrator or designee. **【Such】** The order  
32 shall be effective for not more than 24 hours, and may be renewed  
33 for additional periods of not more than 24 hours each if the  
34 administrator or designee shall determine that **【such】** continued  
35 restraint or isolation is necessary. While in restraint or isolation,  
36 **【such】** the person shall be checked by an attendant every 15  
37 minutes, and bathed every 24 hours. **【Such】** The restraint or  
38 isolation shall be terminated at any time if an attending physician  
39 shall find **【such】** the restraint or isolation to be medically  
40 contraindicated. The nature, duration of, reasons for, and notation  
41 of attendant checks shall be promptly recorded in **【such】** the  
42 person's medical record;

43 (4) be subjected to shock treatment, psychosurgery, sterilization,  
44 or medical behavioral or pharmacological research without the  
45 express and informed consent of **【such】** the person, if **【a**  
46 **competent】** an adult who has mental capacity, or of **【such】** the

1 person's guardian ad litem specifically appointed by a court for the  
2 matter of consent to these proceedings, if a minor or an  
3 **【incompetent】** adult who lacks mental capacity or a person  
4 administratively determined to **【be mentally deficient】** have a  
5 mental deficiency. **【Such】** The consent shall be made in writing  
6 and shall be placed in **【such】** the person's record.

7 Either the party alleging the necessity of **【such】** the procedure or  
8 **【such】** the person or **【such】** the person's guardian ad litem may  
9 petition a court of competent jurisdiction to hold a hearing to  
10 determine the necessity of **【such】** the procedure at which the client  
11 is physically present, represented by counsel, and provided the right  
12 and opportunity to be confronted with and to cross-examine all  
13 witnesses alleging the necessity of **【such】** the procedure. In **【such】**  
14 the proceedings, the burden of proof shall be on the party alleging  
15 the necessity of **【such】** the procedure. In the event that a person  
16 cannot afford counsel, the court shall appoint an attorney not less  
17 than 10 days before the hearing. An attorney so appointed shall be  
18 entitled to a reasonable fee to be determined by the court and paid  
19 by the county from which the person was admitted. Under no  
20 circumstances may a person in treatment be subjected to hazardous  
21 or intrusive experimental research which is not directly related to  
22 the specific goals of **【his】** the person's treatment program.

23 (5) Notwithstanding the provisions of paragraph (4) of this  
24 subsection to the contrary, nothing in this section shall prohibit  
25 consent obtained or research conducted pursuant to the provisions  
26 of P.L.2007, c.316 (C.26:14-1 et seq.) as provided in this paragraph  
27 (5).

28 (a) In addition to meeting the requirements of sections 4 and 5 of  
29 P.L.2007, c.316 (C.26:14-4 and C.26:14-5), medical research  
30 involving persons who are protected by the provisions of this  
31 subsection shall also meet the approval of the Interdisciplinary  
32 Research Committee established herein.

33 (b) The members of the Interdisciplinary Research Committee  
34 shall be appointed by the Assistant Commissioner of the Division of  
35 Developmental Disabilities in the Department of Human Services,  
36 and shall serve at the pleasure of the Assistant Commissioner. The  
37 members shall have diverse backgrounds, represent a variety of  
38 professions, and include at least one self-advocate and one family  
39 member, neither of whom shall be an employee of the department.

40 (c) The committee shall independently determine whether the  
41 criteria set forth in section 3 of P.L.2007, c.316 (C.26:14-3), and  
42 where required, the informed consent provisions of section 4 of  
43 P.L.2007, c.316 (C.26:14-4), have been met. In addition, the  
44 committee may impose such other conditions on approval as it  
45 determines are necessary to protect the health, safety, and autonomy  
46 of the individuals participating in the medical research.

1 (d) Notices of proposals for medical research received by the  
2 committee, and the committee's action on the proposals, shall be  
3 posted on the department's website and forwarded to the New Jersey  
4 Council on Developmental Disabilities, The Elizabeth M. Boggs  
5 Center on Developmental Disabilities, and Disability Rights of New  
6 Jersey.

7 (e) Two years after enactment of P.L.2011, c.182 and every two  
8 years thereafter, the division shall provide to the Legislature,  
9 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), and post on  
10 the division's Internet website, a summary of the research proposals  
11 reviewed by the committee and the actions taken.

12 b. Every **【developmentally disabled】** person with a  
13 developmental disability in residence at any facility shall be  
14 provided with a nutritionally adequate and sufficient diet and shall  
15 receive appropriate and sufficient medical and dental care on a  
16 regular basis and whenever otherwise necessary.

17 c. Every **【developmentally disabled】** person with a  
18 developmental disability between the ages of **【5】** five and 21,  
19 inclusive, in residence or full-time attendance at any facility shall  
20 be provided a thorough and efficient education suited to **【such】** the  
21 person's age and abilities.

22 (cf: P.L.2011, c.182, s.1)

23  
24 93. R.S.30:9-1 is amended to read as follows:

25 30:9-1. The **【boards of chosen freeholders in】** counties of the  
26 first class shall appoint a superintendent for each county hospital  
27 and the physicians for the several county hospitals. The **【terms】**  
28 term of office of **【such appointees, except that of the**  
29 **superintendents of the county hospitals for the insane, whose terms**  
30 **of office shall be】** the physicians shall be two years. The term of  
31 office of the superintendents of the county hospitals shall be as  
32 provided by 【section】 R.S.30:9-12 【of this title, shall be two  
33 years】.

34 (cf: R.S.30:9-1)

35  
36 94. Section 1 of P.L.1941, c.37 (C.30:9-3.1) is amended to read  
37 as follows:

38 1. **【Boards of chosen freeholders】** Counties are empowered to  
39 maintain a commissary or store for the sale of commodities to  
40 patients, patients' visitors, and employees of any county psychiatric  
41 hospital **【for the insane】** under rules to be adopted by the **【board】**  
42 county. The cost of establishing the commissary or store may be  
43 defrayed out of **【any】** funds appropriated for current maintenance.  
44 Any profit **【accruing】** may be used **【by the board】** for recreational  
45 entertainment of the patients or **【any other】** another like purpose.

46 (cf: P.L.1941, c.37, s.1)

1

2 95. R.S.30:9-4 is amended to read as follows:

3 30:9-4. **【Wherever in any county in this State a lunatic asylum】**  
4 **【If a psychiatric hospital】** is owned and maintained by the county, and  
5 it becomes necessary **【from time to time】** either to enlarge **【such**  
6 **asylum】** the hospital by the building of additions or extensions  
7 **【thereto】**, or to erect additional buildings **【or pavilions】** for the  
8 accommodation of the **【insane】** patients, the board of chosen  
9 freeholders or governing body of **【any such】** the county may **【,**  
10 **from time to time】**, upon a resolution or ordinance, as appropriate,  
11 to be adopted by the affirmative votes of two-thirds of the  
12 **【members of such board】** full authorized membership of the board,  
13 build **【such】** additions, extensions, additional building or buildings,  
14 **【pavilion or pavilions】**, and properly fit, furnish, and equip **【the**  
15 **same】** them.

16 (cf: P.L.1940, c.7, s.1)

17

18 96. R.S.30:9-5 is amended to read as follows:

19 30:9-5. **【To】** The county may issue bonds in the corporate name  
20 of the county to meet the expense of erecting new buildings,  
21 additions, or accommodations at a county **【lunatic asylum】**  
22 psychiatric hospital, and making repairs to **【such】** or otherwise  
23 properly fitting, furnishing, and equipping the buildings **【,**  
24 providing proper furniture or apparatus for lighting, heating or  
25 otherwise fitting up the same, the board of chosen freeholders may  
26 issue bonds in the corporate name of the county**】**.

27 (cf: P.L.1940, c.7, s.2)

28

29 97. R.S.30:9-6 is amended to read as follows:

30 30:9-6. The board of chosen freeholders or governing body of a  
31 county, by a resolution or ordinance, as appropriate, adopted by the  
32 affirmative vote of two-thirds of **【its members】** the full authorized  
33 membership of the board may consolidate its county psychiatric  
34 hospitals **【for the insane】** in one place on suitable lands owned by  
35 the county and erect, furnish, and maintain suitable hospital  
36 buildings thereon. County bonds for **【such】** this purpose may be  
37 issued to an amount not exceeding six-tenths of one per cent of the  
38 ratables of the county.

39 (cf: R.S.30:9-6)

40

41 98. R.S.30:9-7 is amended to read as follows:

42 30:9-7. **【Whenever】** If county psychiatric hospitals **【for the**  
43 **insane shall be】** are consolidated as **【authorized】** provided by  
44 **【section】** R.S.30:9-6 **【of this title】**, the **【board of chosen**  
45 **freeholders of such】** county may sell **【any】** its lands and buildings  
46 **【owned by such county and used for the purposes of】** used for a

1 psychiatric hospital **【for the insane which are located in a part of**  
2 **the county remote from the site of the hospital buildings so**  
3 **consolidated, and which】** that are **【rendered】** unnecessary **【to be**  
4 **used】** for **【such】** hospital purposes, and the sale and conveyance of  
5 **【such】** the lands **【by such board】** shall vest in the purchaser title in  
6 fee to the premises so sold. The proceeds of **【such】** the sale shall  
7 be applied **【by such board】** to the sinking funds of **【such】** the  
8 county or to the redemption of county bonds, and not otherwise.

9 (cf: R.S.30:9-7)

10

11 99. R.S.30:9-8 is amended to read as follows:

12 30:9-8. **【Whenever in any county of this state】** If the board of  
13 chosen freeholders or the governing body of the county **【thereof**  
14 **shall determine】** determines, by a resolution **【which shall receive】**  
15 or ordinance, as appropriate, adopted by the affirmative votes of at  
16 least two-thirds of **【all its members】** the full authorized  
17 membership of the board, that **【any】** a county psychiatric hospital  
18 **【for the insane】** under its management and control is unsuitably  
19 located, and that it is expedient and desirable that the location  
20 thereof should be changed to some other place in its county, **【such**  
21 **board】** the county may make **【such】** the change.

22 (cf: R.S.30:9-8)

23

24 100. R.S.30:9-9 is amended to read as follows:

25 30:9-9. If **【,** in the judgment of a board of chosen freeholders**】**  
26 the county desiring to change the location of a county psychiatric  
27 hospital **【for the insane】** under authority of **【section】** R.S.30:9-8  
28 **【of this title,】** determines there is no suitable location **【within its**  
29 **county】** at which **【such】** the hospital might be relocated, and **【such**  
30 **board】** desires to locate the hospital in **【some other】** another county  
31 of this **【state】** State, it may do so by entering into an agreement  
32 with the **【board of chosen freeholders of such】** other county, either  
33 to **【jointly】** build and maintain **【such】** the hospital jointly, or **【that**  
34 **the board of one county may】** to build and maintain the **【same】**  
35 hospital by one county with the right in the other **【board】** county to  
36 commit its patients therein, at a sum per week per patient to be  
37 agreed upon.

38 If both **【of such boards】** counties agree to **【jointly】** build and  
39 maintain **【such】** the hospital jointly, they shall **【jointly agree】**  
40 concur upon the site **【thereof】**, appoint an architect, and approve  
41 **【of】** plans and specifications, and do and perform **【every other**  
42 **necessary act and thing】** everything necessary for **【the】** completion  
43 of the work **【herein】** authorized and the maintenance **【of the same**  
44 **after completion】** thereafter, including **【the】** employment of



1 physicians and other necessary employees [in and about the  
2 institution].

3 If by [the] their agreement [between such boards one board is to  
4 build and maintain such] one county builds and maintains the  
5 hospital, that [board] county shall select the site [therefor],  
6 appoint the architect, and approve [of] the plans and specifications,  
7 and do and perform [every other necessary act and thing]  
8 everything necessary for [the] completion of the work [herein]  
9 authorized, and the maintenance [of the same after completion]  
10 thereafter, including [the] employment of physicians and other  
11 necessary employees [in and about the institution].

12 If [any board concludes] a county decides to change the location  
13 of its hospital, [as aforesaid, the joint boards if they agree to  
14 undertake the work, or the single board, if it is to do the work alone,  
15 either within or without its county,] one or more counties  
16 depending upon their agreement shall have full power and authority  
17 to acquire lands within or without the county by gift, devise,  
18 purchase, or condemnation, [and] to erect suitable buildings  
19 [thereon], and to fit, furnish, and equip the [same] buildings, lay  
20 out the grounds, make provision for [a water supply] utilities and  
21 [railroad] mass transit connections, and do and perform [such other  
22 things as may be] whatever is necessary or [proper to be done in  
23 order] appropriate to establish a modern psychiatric hospital [for  
24 the insane].

25 The [moneys wherewith] funds to acquire [such] the lands,  
26 erect [such] the buildings, and [to do and] perform [all] the work  
27 [and things], including the purchase of materials and fittings,  
28 furnishings, and equipment [herein] authorized, except [that which  
29 might consist in] for maintenance only, shall be raised [and  
30 obtained by the board of chosen freeholders of the county if one  
31 only undertakes the doing of the work, or the boards of chosen  
32 freeholders of the two counties undertaking the doing of the work]  
33 by one or more counties doing the work, each to the extent of its  
34 share, by the issue and sale of bonds [therefor and in the manner  
35 and by the methods prescribed by chapter 1 of the title  
36 Municipalities and Counties (s. 40:1-1 et seq.), and shall be] paid  
37 [out] by the county treasurer or treasurers, [as the case may be on  
38 the order of the board of chosen freeholders, as the case may be] in  
39 accordance with the counties' agreement.

40 (cf: R.S.30:9-9)

41

42 101. R.S.30:9-11 is amended to read as follows:

43 30:9-11. [Where any work is to be done] If the cost of work  
44 performed and materials [to be] furnished in the [erection and]  
45 construction, fitting, furnishing, and equipping of [ such buildings

1 or in the fitting, furnishing and equipping of the same,] county  
2 psychiatric hospitals, or [in and about] laying out the grounds, as  
3 provided by [section] R.S.30:9-9 [of this title, where the cost  
4 thereof shall exceed the sum of one thousand dollars] , exceeds  
5 \$1,000, the [same] work shall be [done] performed and materials  
6 furnished on a contract [to be] awarded to the lowest responsible  
7 bidder who shall furnish satisfactory security to the [board or  
8 boards] county or counties undertaking [such] the work, on bids  
9 duly advertised [for] in the county or counties [engaged in the  
10 work, and also where the]. If buildings are to be [erected]  
11 constructed, the advertisement shall be published for at least two  
12 weeks, once in each week; and if joint counties undertake the work  
13 [be undertaken by joint boards], they shall appoint a committee to  
14 advertise [for] and receive [such] the bids[, which committee  
15 shall] and to report the bids to [such boards] their governing  
16 bodies at their next meetings.

17 (cf: R.S.30:9-11)

18

19 102. R.S.30:9-12 is amended to read as follows:

20 30:9-12. [The board of chosen freeholders in counties] Counties  
21 of the first class, in appointing superintendents for the county  
22 psychiatric hospitals [for the insane], may designate and prescribe  
23 the terms of office of [such] the superintendents, which shall not  
24 [be for a longer time than] exceed five years.

25 (cf: R.S.30:9-12)

26

27 103. Section 6 of P.L.1976, c.120 (C.30:13-6) is amended to  
28 read as follows:

29 6. [Any] A nursing home resident may arrange for the resident's  
30 own discharge [himself] from a nursing home upon presentation of  
31 a written release and, if the resident is [an] adjudicated [mental  
32 incompetent] incapacitated, upon the written consent of [his] the  
33 resident's guardian. In [such] this case, the nursing home is free  
34 from any responsibility for the resident upon [his] the resident's  
35 release. When a nursing home wishes to transfer or discharge on a  
36 nonemergency basis a [competent or an adjudicated mental  
37 incompetent] resident [on a nonemergency basis] who has mental  
38 capacity or a resident who is adjudicated incapacitated, [it] the  
39 nursing home may do so for medical reasons or for [his] the  
40 person's welfare or for that of other residents upon receiving a  
41 written order from the attending physician, or for nonpayment [of  
42 his stay], except as prohibited by Title XVIII or Title XIX of the  
43 Social Security Act, as amended, and [such] the action shall be  
44 recorded in the resident's medical record. When a transfer or  
45 discharge on a nonemergency basis of a resident is requested by a

1 nursing home, the resident or, in the case of **[an]** a resident who is  
2 adjudicated **[mental incompetent resident]** incapacitated, the  
3 guardian, shall be given at least 30 days advance notice of **[such]**  
4 the transfer or discharge.

5 (cf: P.L.1976, c.120, s. 6)

6

7 104. R.S.34:15-27 is amended to read as follows:

8 34:15-27. An agreement for compensation may be modified at  
9 any time by a subsequent agreement. **[A]** Upon the application of  
10 any party, a formal award, determination **[and rule for]**, judgment,  
11 or order approving settlement may be reviewed within **[2]** two  
12 years from the date when the injured person last received a payment  
13 **[upon the application of either party]** on the ground that the  
14 incapacity of the injured employee has subsequently increased. If  
15 **[any]** a party entitled to a review under this section shall become  
16 **[insane]** mentally incapacitated within the **[aforesaid 2-year]** two-  
17 year period, **[his insanity]** the mental incapacity shall constitute  
18 grounds for tolling the unexpired balance of the **[2-year]** two-year  
19 period, which shall only begin to run again after **[his coming to or**  
20 **being of same mind]** the party returns to mental capacity. An  
21 award, determination **[and rule for]**, judgment, or order approving  
22 settlement may be reviewed at any time on the ground that the  
23 disability has diminished. In such case, the provisions of **[section]**  
24 R.S.34:15-19 [of this Title] with reference to medical examination  
25 shall apply.

26 (cf: P.L.1975, c. 319, s.1)

27

28 105. R.S.37:1-6 is amended to read as follows:

29 37:1-6. A marriage or civil union license shall not be issued to a  
30 minor under the age of 18 years, unless the parents or guardian of  
31 the minor, if **[there be]** any, first certify **[under their hands and**  
32 **seals]**, in the presence of two reputable witnesses, **[their]** consent  
33 thereto, which **[consent]** shall be delivered to the licensing officer  
34 issuing the license. **[If the parents, or either of them, or guardian of**  
35 **any such minor shall be of unsound mind, the consent of such**  
36 **parent or guardian to the proposed marriage or civil union]** Consent  
37 to the proposed marriage or civil union by a parent or guardian who  
38 is mentally incapacitated shall not be required.

39 When a minor is under the age of 16 years, the consent required  
40 by this section must be approved in writing by **[any]** a judge of the  
41 Superior Court, Chancery Division, Family Part **[. Said approval**  
42 **shall be]** and filed with the licensing officer.

43 The licensing officer shall transmit to the State registrar all  
44 **[such]** consents, orders, and approvals **[so received by him in the**  
45 **same manner and]** subject to the same penalty as in the case of

1 marriage or civil union certificates **【of marriage or civil union and**  
2 **marriage or civil union】** or licenses.

3 (cf: P.L.2006, c.103, s.10)

4

5 106. R.S.37:1-9 is amended to read as follows:

6 37:1-9. No marriage license shall be issued when, at the time of  
7 making an application therefor, either applicant is **【infected with a**  
8 **venereal disease in a communicable stage, or is】** a person currently  
9 adjudicated **【mentally incompetent】** incapacitated.

10 (cf: P.L.1981, c. 254, s. 1)

11

12 107. Section 3 of P.L.1987, c.291 (C.40:11A-22.2) is amended  
13 to read as follows:

14 3. No person may be appointed as a parking enforcement officer  
15 unless the person:

16 a. is a resident of this State during the term of appointment;

17 b. is able to read, write, and speak the English language **【well**  
18 **and intelligently】** proficiently;

19 c. **【is of sound mind】** has the mental capacity and **【in good**  
20 **health】** physical ability to perform the tasks of parking enforcement  
21 officer;

22 d. is of good moral character;

23 e. has not been convicted of any offense involving dishonesty  
24 or which would make **【him】** the person unfit to perform the duties  
25 of **【his】** the office.

26 (cf: P.L.1987, c.291, s.3)

27

28 108. R.S.40:65-3 is amended to read as follows:

29 40:65-3. The notice may be served upon all owners residing in  
30 the municipality, personally, or by leaving the same at their usual  
31 place of residence with a member of the family above the age of  
32 fourteen years. In the case of **【infants】** minors and **【incompetents】**  
33 incapacitated persons, **【such】** the notice shall be served upon their  
34 guardians; when any real estate is held in trust, upon the trustee;  
35 when held by joint tenants, tenants in common or by the entirety,  
36 upon any one such tenant. If the owner of any **【such】** the real  
37 estate is a nonresident of the municipality, the notice may be served  
38 upon **【him】** the owner personally, or upon **【his】** the owner's agent  
39 in charge of the property, or upon the occupant thereof, or mailed to  
40 the nonresident owner at **【his】** the nonresident owner's last known  
41 post-office address.

42 (cf: R.S.40:65-3)

43

44 109. Section 3 of P.L.1987, c.260 (C.40A:9-154.9) is amended  
45 to read as follows:

1 3. No person may be appointed as a parking enforcement officer  
2 unless, at a minimum, the person:

3 a. Is a resident of this State during the term of appointment;

4 b. Is able to read, write, and speak the English language **[well**  
5 **and intelligently]** proficiently;

6 c. **[Is of sound mind]** Has the mental capacity and **[in good**  
7 **health]** physical ability to perform the tasks of parking enforcement  
8 officer;

9 d. Is of good moral character; and

10 e. Has not been convicted of any offense involving dishonesty  
11 or which would make the person unfit to perform the duties of **[his]**  
12 the office.

13 (cf: P.L.1987, c.260, s.3)

14  
15 110. Section **'[4] 41'** of P.L.1988, c.130 (C.42:2A-8.2) is  
16 amended to read as follows:

17 42:2A-8.2. Resignation of registered agent. a. The registered  
18 agent of a domestic limited partnership or a foreign limited  
19 partnership authorized to transact business in this State may resign  
20 by complying with the provisions of this section.

21 b. The registered agent, or, in the case of a registered agent who  
22 is deceased or has been **[declared incompetent]** adjudicated  
23 incapacitated by a court of competent jurisdiction, **[his]** the agent's  
24 legal representative, shall serve a notice of resignation by certified  
25 mail, return receipt requested, upon a general partner or general  
26 partners of the limited partnership at the address last known to the  
27 agent, and shall make an affidavit of **[such]** service. If service  
28 cannot be made, the affidavit shall so state, and shall state briefly  
29 why service cannot be made. The affidavit, together with a copy of  
30 notice of resignation, shall be filed in the Office of the Secretary of  
31 State.

32 c. The resignation shall become effective 30 days after the filing  
33 in the office of the Secretary of State of the affidavit of service or  
34 upon the designation by the limited partnership of a new registered  
35 agent pursuant to this act, whichever is earlier. If the limited  
36 partnership fails to designate a new registered agent within the 30  
37 day period, the limited partnership shall thereafter be deemed to  
38 have no registered agent or registered office in this State, until the  
39 limited partnership files a certificate of change of address of  
40 registered office and registered agent indicating the new registered  
41 office and registered agent.

42 d. If any certificate of change replacing a resigned agent is not  
43 filed, the limited partnership shall, after written demand therefor by  
44 the Secretary of State, forfeit to the State a penalty of **[\$200.00]**  
45 \$200 for each year or part thereof until an agent is appointed. The  
46 Secretary of State may issue a certificate to the Clerk of the  
47 Superior Court that the limited partnership is indebted for the

1 payment of this penalty. This certificate shall be entered by the  
2 Clerk as a judgment docketed in the Superior Court, and shall have  
3 the same form as a docketed judgment.

4 (cf: P.L.1988, c.130, s.41)

5

6 111. Section 30 of P.L.1983, c. 489 (C.42:2A-31) is amended to  
7 read as follow:

8 30. Events of withdrawal of a general partner. Except as  
9 approved by the specific written consent of all partners at the time,  
10 a person ceases to be a general partner of a limited partnership upon  
11 the happening of any of the following events:

12 a. The general partner withdraws from the limited partnership as  
13 provided in section 39 of P.L.1983, c.489 (C.42:2A-40);

14 b. The general partner ceases to be a member of the limited  
15 partnership as provided in section 46 of P.L.1983, c.489 (C.42:2A-  
16 47);

17 c. The general partner is removed as a general partner in  
18 accordance with the partnership agreement;

19 d. Unless otherwise provided in the certificate of limited  
20 partnership, the general partner: (1) makes an assignment for the  
21 benefit of creditors; (2) files a voluntary petition in bankruptcy; (3)  
22 is adjudicated a bankrupt or insolvent; (4) files a petition or answer  
23 seeking for himself any reorganization, arrangement, composition,  
24 readjustment, liquidation, dissolution, or similar relief under any  
25 statute, law, or regulation; (5) files an answer or other pleading  
26 admitting or failing to contest the material allegations of a petition  
27 filed against him in any proceeding set forth in (4) above; or (6)  
28 seeks, consents to, or acquiesces in the appointment of a trustee,  
29 receiver, or liquidator of the general partner or of all or any  
30 substantial part of his properties;

31 e. Unless otherwise provided in the certificate of limited  
32 partnership, 120 days after the commencement of any proceeding  
33 against the general partner seeking reorganization, arrangement,  
34 composition, readjustment, liquidation, dissolution, or similar relief  
35 under any statute, law, or regulation, the proceeding has not been  
36 dismissed, or if within 90 days after the appointment without his  
37 consent or acquiescence of a trustee, receiver, or liquidator of the  
38 general partner or of all or any substantial part of his properties, the  
39 appointment is not vacated or stayed, or within 90 days after the  
40 expiration of any **[such]** stay, the appointment is not vacated;

41 f. In the case of a general partner who is a natural person **[his]** ,  
42 the partner's death, or the entry by a court of competent jurisdiction  
43 of a judgment adjudicating **[him incompetent]** the partner  
44 incapacitated to manage **[his]** the partner's person or estate;

45 g. In the case of a general partner who is acting as a general  
46 partner by virtue of being a trustee of a trust, the termination of the  
47 trust (but not merely the substitution of new trustee);

1 h. In the case of a general partner that is a separate partnership,  
2 the dissolution and commencement of winding up of the separate  
3 partnership;

4 i. In the case of a general partner that is a corporation, the filing  
5 of a certificate of dissolution, or its equivalent, for the corporation  
6 or the revocation of its charter; or

7 j. In the case of an estate, the distribution by the fiduciary of the  
8 estate's entire interest in the partnership.

9 (cf: P.L.1988, c.130, s.18)

10  
11 112. Section 49 of P.L.1983, c.489 (C.42:2A-50) is amended to  
12 read as follows:

13 42:2A-50. Power of personal representative of deceased or  
14 **[incompetent]** incapacitated person; representative or successor of  
15 corporation, trust, or other entity. If a partner who is an individual  
16 dies or a court of competent jurisdiction adjudges **[him]** the partner  
17 to **[be incompetent]** lack the mental capacity to manage **[his]** the  
18 partner's person or **[his]** property, the partner's executor,  
19 administrator, guardian, conservator, or other legal representative  
20 may exercise all the partner's rights for the purpose of settling **[his]**  
21 the partner's estate or administering **[his]** the partner's property,  
22 including any power the partner had to give an assignee the right to  
23 become a limited partner. If a partner is a corporation, trust, or  
24 other entity and is dissolved or terminated, the powers of that  
25 partner may be exercised by its legal representative or successor.

26 (cf: P.L.1983, c.489, s.49)

27  
28 <sup>1</sup>**[**113. Section 7 of P.L.1993, c.210 (C.42:2B-7) is amended to  
29 read as follows:

30 7. a. The registered agent of a domestic limited liability  
31 company or a foreign limited liability company authorized to  
32 transact business in this State may resign by complying with the  
33 provisions of this section.

34 b. The registered agent of a foreign or domestic limited liability  
35 company may resign and appoint a successor registered agent by  
36 filing a certificate in the office of the Secretary of State, stating that  
37 it resigns and the name and address of the successor registered  
38 agent. There shall be attached to **[such]** the certificate a statement  
39 executed by the affected limited liability company ratifying and  
40 approving **[such]** the change of registered agent. Upon **[such]**  
41 filing, the successor registered agent shall become the registered  
42 agent of each limited liability company which has ratified and  
43 approved the substitution and the successor registered agent's  
44 address, as stated in **[such]** the certificate, shall become the address  
45 of each limited liability company's registered office in this State.  
46 The Secretary of State shall furnish to the successor registered agent  
47 upon request a certified copy of the certificate of resignation. Filing

1 of the certificate of resignation shall be deemed to be an amendment  
2 of the certificate of formation of the limited liability company  
3 affected thereby and the limited liability company shall not be  
4 required to take any further action with respect thereto, to amend its  
5 certificate of formation under **【this act】** P.L.1993, c.210 (C.42:2B-1  
6 et seq.).

7 c. The registered agent of a limited liability company may resign  
8 without appointing a successor registered agent by complying with  
9 the following provisions:

10 (1) The registered agent, or, in the case of a registered agent who  
11 is deceased or has been **【declared incompetent】** adjudicated  
12 incapacitated by a court of competent jurisdiction, **【his】** the agent's  
13 legal representative, shall serve a notice of resignation by certified  
14 mail, return receipt requested, upon the limited liability company at  
15 the address last known to the agent, and shall make an affidavit of  
16 **【such】** service. If service cannot be made, the affidavit shall so  
17 state, and shall state briefly why service cannot be made. The  
18 affidavit, together with a copy of notice of resignation, shall be filed  
19 in the office of the Secretary of State.

20 (2) The resignation shall become effective 30 days after filing  
21 the affidavit of service in the office of the Secretary of State or  
22 upon the designation by the limited liability company of a new  
23 registered agent pursuant to **【this act】** P.L.1993, c.210, whichever  
24 is earlier. If the limited liability company fails to designate a new  
25 registered agent within the 30-day period, the limited liability  
26 company shall thereafter be deemed to have no registered agent or  
27 registered office in this State, until the limited liability company  
28 files a certificate of change of address of registered office and  
29 registered agent indicating the new registered office and registered  
30 agent.

31 (cf: P.L.1997, c.139, s.8.)<sup>1</sup>

32  
33 <sup>1</sup>**【114.** Section 47 of P.L.1993, c.210 (C.42:2B-47) is amended  
34 to read as follows:

35 47. If a member who is an individual dies or a court of  
36 competent jurisdiction adjudges **【him】** the member to **【be**  
37 **incompetent】** lack the mental capacity to manage **【his】** the  
38 member's person or **【his】** property, the member's executor,  
39 administrator, guardian, conservator, or other legal representative  
40 may exercise all of the member's rights for the purpose of settling  
41 **【his】** the member's estate or administering **【his】** the member's  
42 property, including any power under an operating agreement of an  
43 assignee to become a member and the power given to an assignee  
44 under subsection d. of section 46 of P.L.1993, c.210 (C.42:2B-46).  
45 If a member is a corporation, trust, or other entity and is dissolved  
46 or terminated, the powers of that member may, in addition to the  
47 powers given to an assignee under subsection d. of section 46 of



1 P.L.1993, c.210 (C.42:2B-46), be exercised by its legal  
2 representative or successor.

3 (cf: P.L.1998, c.79, s.11) ]<sup>1</sup>

4

5 <sup>1</sup>[115.] 113.<sup>1</sup> R.S.42:4-13 is amended to read as follows:

6 42:4-13. **When** ~~If~~ a member of a partnership **has been or shall**  
7 **be adjudged a lunatic** ~~is adjudicated incapacitated~~, the court may  
8 **in an action and** on application of **any of the other partners**  
9 ~~another partner~~ or **such** other person as the court shall determine  
10 to be entitled to make the application, dissolve the partnership. The  
11 court may proceed in the action in a summary manner or otherwise.

12 (cf: P.L.1953, c.40, s.32)

13

14 <sup>1</sup>[116.] 114.<sup>1</sup> R.S.42:4-14 is amended to read as follows:

15 42:4-14. When a partnership is dissolved as provided by  
16 **section** R.S.42:4-13 **of this Title**, or is otherwise lawfully  
17 dissolved **by due course of law**, and a **member thereof** partner  
18 has been **or shall be adjudged a lunatic** ~~adjudicated incapacitated~~,  
19 the guardian of **such lunatic** the partner who is incapacitated, in  
20 the name and on behalf of **his ward** that partner, may **join and**  
21 concur with the other **members of the partnership** partners or  
22 other persons interested in disposing of **all** the partnership  
23 property, **in such manner and upon such terms as the court may**  
24 **direct** as directed by the court.

25 (cf: P.L.1953, c.40, s.33)

26

27 <sup>1</sup>[117.] 115.<sup>1</sup> R.S.42:4-15 is amended to read as follows:

28 42:4-15. The guardian mentioned in **section** R.S.42:4-14 **of**  
29 **this Title** may make and execute all **such** conveyances and do all  
30 things necessary to effectuate the provisions of this article **as the**  
31 **court may direct. He** and shall also dispose of all money or  
32 property **by him** received for, from, or on account of the  
33 **lunatic's** share or interest in the partnership of the partner who is  
34 mentally incapacitated, as the court may direct.

35 (cf: P.L.1953, c.40, s.34)

36

37 <sup>1</sup>[118.] 116.<sup>1</sup> Section 13 of P.L.2007, c.92 (C.43:15C-13) is  
38 amended to read as follows:

39 13. The disability benefit coverage provided under a group  
40 policy or policies shall provide a monthly income if the participant  
41 becomes totally disabled from occupational or nonoccupational  
42 causes for a period of at least six consecutive months following the  
43 effective date of the coverage. The monthly disability benefit may  
44 be paid by the insurance company so long as the participant remains  
45 disabled up to the **seventieth** 70th birthday, provided the

1 disability commenced prior to the **【sixtieth】** 60th birthday. The  
2 benefit shall terminate when the participant is no longer considered  
3 totally disabled or begins to receive retirement benefits.

4 The participant shall be considered totally disabled if the  
5 participant is unable to perform each duty of the participant's  
6 occupation and is under the regular care of a physician. After the 24  
7 months following the commencement of **【such】** the disability  
8 benefit payments, the participant shall be unable to engage in any  
9 gainful occupation for which the participant is reasonably fitted by  
10 education, training, or experience. Total disability shall not be  
11 considered to exist if the participant is gainfully employed.  
12 Following an agreement with the insurance company and the  
13 policyholder, the participant may continue to receive disability  
14 benefits for a limited time while performing some type of work.  
15 During the period of rehabilitation, the monthly benefit shall be the  
16 regular payment less 80% of the participant's earnings from **【such】**  
17 the rehabilitative position.

18 A participant shall be deemed to be in service and covered by the  
19 disability benefit insurance provisions for a period of no more than  
20 six months while on official leave of absence without pay if  
21 satisfactory evidence is presented to the Division of Pensions and  
22 Benefits that **【such】** leave of absence without pay is due to illness  
23 and that the participant was not actively engaged in any gainful  
24 occupation during **【such】** the period of leave of absence without  
25 pay.

26 Disability benefit insurance provisions of the group policy or  
27 policies shall not cover disability resulting from or contributed to  
28 by pregnancy, act of war, intentionally self-inflicted injury, or  
29 attempted suicide **【whether or not sane】** regardless of the person's  
30 mental capacity. For purposes of **【such】** the disability benefit  
31 coverage, the participant shall not be considered to be disabled  
32 while the participant is imprisoned or while outside the United  
33 States, its territories or possessions, or Canada.

34 If the participant has recovered from the disability for which the  
35 member had received benefits and again becomes totally disabled  
36 while insured, the later disability shall be regarded as a continuation  
37 of the prior one unless the participant has returned to full-time  
38 covered employment for at least six months. If the later absence is  
39 due to an unrelated cause and the participant had returned to full-  
40 time work, it shall be considered a new disability. The disability  
41 benefit insurance cannot be converted to an individual policy.

42 No participant shall be covered by the disability benefit  
43 provision of the group policy or policies except upon the  
44 completion of one year of full-time continuous employment in a  
45 position eligible for participation in the Defined Contribution  
46 Retirement Program. For a member who is a participant pursuant to  
47 paragraph (5) of subsection a. of section 2 of P.L.2007, c.92

1 (C.43:15C-2) as amended by section 12 of P.L.2007, c.103 and  
2 section 7 of P.L.2010, c.1, completion of one year of full-time  
3 continuous employment in a position eligible for membership in the  
4 Teachers' Pension and Annuity Fund, Police and Firemen's  
5 Retirement System, State Police Retirement System, or the Public  
6 Employees' Retirement System shall also be considered in  
7 determining if the participant met the requirements of this  
8 paragraph.

9 (cf: P.L.2010, c.1, s.16)

10

11 <sup>1</sup>~~119.~~ 117.<sup>1</sup> R.S.44:1-1 is amended to read as follows:

12 44:1-1. As used in this chapter:

13 "Almshouse" means a place where the poor are maintained at the  
14 public expense of a municipality or county, which has not  
15 established and does not maintain a welfare-house~~;~~ .

16 "Commissioner" means the ~~commissioner of institutions and~~  
17 ~~agencies;~~ Commissioner of Human Services.

18 "County adjuster" means the official of that designation  
19 authorized to act in the cases of commitment or admission of  
20 ~~insane~~ persons who have a mental illness to state or county  
21 psychiatric hospitals ~~for the insane;~~ .

22 "May" shall be construed to be permissive~~;~~ .

23 "Municipality" shall not include, in meaning, a county, unless  
24 otherwise indicated by the context, but shall include a city,  
25 borough, township, town, village, or municipality governed by an  
26 improvement commission~~;~~ .

27 "Overseer" means a person who is charged with the  
28 superintendence and relief or removal of the poor within ~~his~~  
29 overseer's jurisdiction or found in ~~his~~ the overseer's  
30 municipality, and means superintendent in all cases where a  
31 superintendent as defined in this section is authorized to act when  
32 there is no overseer~~;~~ .

33 "Permanent or indoor poor" means poor persons who may be  
34 better relieved or maintained and supported under the provisions of  
35 this chapter by commitment to a welfare-house, almshouse, or, with  
36 limitations, in the home~~;~~ .

37 "Poor person" means one who is unable to maintain himself or  
38 those dependent upon him ~~;~~ .

39 "Public charge" means a person to whom it is necessary to  
40 furnish proper relief as provided in this chapter~~;~~ .

41 "Settlement of a person" means ~~his~~ a person's right under the  
42 provisions of this chapter to relief or maintenance and support in a  
43 municipality, county, or counties~~;~~ .

44 "State board" means the ~~state board of control of institutions~~  
45 ~~and agencies;~~ State Board of Human Services.

1 "Superintendent" means the employee of a welfare board of a  
2 county or district authorized to act for it and under its direction and  
3 to act for overseers where there are none[;] .

4 "Temporary or outdoor poor" means poor persons who can be  
5 relieved temporarily at their domicile or without being maintained  
6 in an almshouse or welfare-house[;] .

7 "Voluntary wards of the county welfare board" means persons  
8 admitted to a county welfare-house on application to the county  
9 welfare board and not supported entirely at public expense[;] .

10 "Welfare board" means the board of one or more counties  
11 authorized to have charge, supervision, and control of a welfare-  
12 house and to supervise through a superintendent such work for or in  
13 relation to the poor as directed or authorized[;] .

14 "Welfare-house" means a place where persons unable to care for  
15 and maintain themselves in whole or in part by reason of age,  
16 infirmity or poverty may be cared for and maintained in whole or in  
17 part at the expense of a county or municipality under the  
18 superintendent of a county welfare board in a county or portion  
19 thereof or districts composed of more than one county or portions  
20 thereof.

21 "District welfare-house" where so mentioned, means one  
22 established and maintained by more than one county or portions  
23 thereof.

24 (cf: R.S.44:1-1)

25  
26 <sup>1</sup>[120.] 118.<sup>1</sup> R.S.44:4-1 is amended to read as follows

27 44:4-1. As used in this chapter:

28 "Almshouse" means a place for the maintenance of the poor at  
29 the public expense of a county or municipality, prior to the  
30 establishment of a welfare-house[;] .

31 "Commissioner" means the [commissioner of institutions and  
32 agencies;] Commissioner of Human Services.

33 "County adjuster" means the official of that designation  
34 authorized to act in the cases of commitment or admission of  
35 [insane] persons who have a mental illness to State or county  
36 hospitals for the insane[;] .

37 "County welfare board" means the board of a single county  
38 authorized to have charge, supervision and control of a county  
39 welfare-house and the administration of the settlement and relief of  
40 the poor for such county and to supervise through a director of  
41 welfare such work for or in relation to the poor as directed or  
42 authorized[;] .

43 "Director of welfare" means an employee of a county welfare  
44 board with authority to act for it and under its direction, and to act  
45 for and in lieu of overseers where there are none, and perform the  
46 functions of and replace the office of overseer[;] .

47 "May" shall be construed to be permissive[;] .

1 "Municipality" shall not include, in meaning, a county, unless  
2 otherwise indicated by the context, but shall include any city,  
3 borough, township, town, village or municipality governed by an  
4 improvement commission.

5 "Permanent or indoor poor," as found in this chapter, shall mean  
6 a disabled person who has been diagnosed by a regular practicing  
7 physician as being unemployable due to a mental or physical  
8 condition, providing such condition is in the physician's opinion of  
9 permanent nature, and further providing that the disabled person is  
10 not eligible for any other type of categorical aid.

11 "Poor person" means a permanently disabled person who is  
12 without means of support as defined above.

13 "Public charge" means a person to whom it is necessary to  
14 furnish proper relief as provided in this chapter【;】 .

15 "Settlement of a person" means his right under the provisions of  
16 this chapter to relief or maintenance and support in any county or  
17 counties【;】 .

18 "State board" means the State Board of 【Control of Institutions  
19 and Agencies;】 Human Services.

20 "Temporary or outdoor poor" means poor persons who can be  
21 relieved temporarily at their domicile or without being maintained  
22 in an almshouse or welfare-house【;】 .

23 "Welfare-house" means a place where the poor are maintained at  
24 the public expense under the superintendence of a county welfare  
25 board in any county.

26 "Disabled person" means any person entitled to relief under this  
27 chapter.

28 (cf: P.L.1947, c.373, s.1)

29

30 <sup>1</sup>【121.】 119.<sup>1</sup> R.S.44:7-1 is amended to read as follows:

31 44:7-1. As used in this chapter:

32 "Commissioner" means the Commissioner of 【the Department  
33 of Institutions and Agencies】 Human Services.

34 "State board" means the State Board of 【Control of the  
35 Department of Institutions and Agencies】 Human Services.

36 "State division" means the bureau of assistance as set up within  
37 the Department of 【Institutions and Agencies】 Human Services.

38 "Director of old age assistance" means the chief of the State  
39 bureau of assistance.

40 "Director of welfare" means the director of the county welfare  
41 board.

42 "County welfare board" means the boards established within the  
43 several counties for the purposes of administering welfare to the  
44 needy, whether set up under the authority of this chapter or  
45 pursuant to any other laws of this State.

46 "Assistance" means money payments to or on behalf of eligible  
47 persons.

1 "Old age assistance" means assistance to aged needy persons as  
2 provided by this chapter, and, unless otherwise indicated, includes  
3 all programs of assistance for other specified classes of persons  
4 authorized to be administered by or through the county welfare  
5 boards.

6 "County adjuster" means the official of that designation  
7 authorized to act in cases of commitment or admission of **【insane】**  
8 persons who have a mental illness to State or county hospitals for  
9 the insane.

10 "Federal aid" means grants-in-aid to the State as provided for in  
11 the Federal Social Security Act, approved August 14, 1935, as  
12 amended.

13 "Institution" means any establishment, whether in single or  
14 multiple dwellings, whether public or private, whether incorporated  
15 or unincorporated, whether for profit or nonprofit, operated at the  
16 direction of or under the management of an individual or  
17 individuals, corporation, partnership, society, or association, which  
18 furnishes food and shelter for 4 or more persons unrelated to the  
19 proprietor and which provides medical or nursing service or any  
20 other personal care or service beyond food, shelter, and laundry, to  
21 any 1 or more of such persons.

22 (cf: P.L.1962, c.222, s.9)

23  
24 <sup>1</sup>**【122.】 120.**<sup>1</sup> Section 1 of P.L.1964, c.155 (C.44:11-1) is  
25 amended to read as follows:

26 1. As used in **【this act】 P.L.1964, c.155 (C.44:11-1 et seq.)**:

27 "Court" means the Superior Court in the county whose welfare  
28 board is responsible for making payments of public assistance to or  
29 for the benefit of the recipient or, in cases where a representative  
30 payee has been appointed pursuant to **【this act】 P.L.1964, c.155**,  
31 the Superior Court having made such appointment.

32 "Functionally **【incompetent】** incapacitated" means subject to a  
33 mental, physical, or emotional condition which renders the  
34 individual incapable of receiving and utilizing payments of public  
35 assistance in a manner conducive to the health and well-being of  
36 **【himself】** the individual and **【his】** the individual's dependents.

37 "Representative payee" means a person appointed by a court to  
38 act for a recipient to the extent of receiving and administering  
39 payments of public assistance.

40 "Public assistance" means "old age assistance" and "disability  
41 assistance" as authorized by Revised Statutes, Title 44, chapter 7;  
42 "blind assistance" as authorized by Revised Statutes, Title 30,  
43 chapter 6; "assistance for dependent children" as authorized by  
44 chapter 86, laws of 1959; together with amendments and  
45 supplements to any of the foregoing; and any other program  
46 administered through the county welfare boards, by whatever name

1 now or hereafter known, which is authorized to provide financial  
2 assistance to needy persons in the form of money payments.

3 "Recipient" means a person who has been found eligible to  
4 receive payments of public assistance.

5 "Welfare board" means the county welfare board or board of  
6 social services responsible for making payments of public  
7 assistance to or for the benefit of the recipient.

8 (cf: P.L.1991, c.91, s.446)

9  
10 <sup>1</sup>**【123.】 121.**<sup>1</sup> Section 2 of P.L.1964, c.155 (C.44:11-2) is  
11 amended to read as follows:

12 2. Whenever it appears necessary to appoint a representative  
13 payee for a recipient who is functionally **【incompetent】**  
14 incapacitated, a complaint seeking such appointment may be filed  
15 with the court by the welfare board. The complaint shall set forth  
16 the name, age, and place of residence of the recipient; the name and  
17 place of residence of the nearest relative of the recipient, if known;  
18 and that the recipient has been found otherwise eligible to receive a  
19 grant of public assistance.

20 (cf: P.L.1964, c.155, s.2)

21  
22 <sup>1</sup>**【124.】 122.**<sup>1</sup> Section 3 of P.L.1964, c.155 (C.44:11-3) is  
23 amended to read as follows:

24 3. A verified statement by the director of the welfare board, or  
25 **【his】** the director's authorized representative, annexed to the  
26 complaint and setting forth that a review by the **【State Bureau of**  
27 **Assistance】** Division of Family Services in the Department of  
28 Human Services indicates that the recipient is functionally  
29 **【incompetent】** incapacitated, shall be prima facie evidence of the  
30 necessity for the appointment.

31 (cf: P.L.1964, c.155, s.3)

32  
33 <sup>1</sup>**【125.】 123.**<sup>1</sup> Section 4 of P.L.1964, c.155 (C.44:11-4) is  
34 amended to read as follows:

35 4. Upon the filing of a complaint and verified statement as  
36 provided by **【this act】** P.L.1964, c.155 (C.44:11-1 et seq.), the court  
37 shall proceed in a summary manner to hear testimony for the  
38 purpose of determining whether the recipient is functionally  
39 **【incompetent】** incapacitated. The written certification of **【2】** two  
40 physicians who have been in the actual practice of medicine and  
41 surgery in this State for at least **【5】** five years shall be sufficient,  
42 but not required, evidence to establish **【such】** the condition of the  
43 recipient. If the court is satisfied that the recipient is functionally  
44 **【incompetent】** incapacitated, **【such】** the court shall appoint a fit  
45 and proper person as representative payee for **【such】** the recipient.

46 (cf: P.L.1964, c.155, s.4)

47

1       <sup>1</sup>**【126.】** 124.<sup>1</sup> Section 7 of P.L.1964, c.155 (C.44:11-7) is  
2 amended to read as follows:

3       7. (a) When at a hearing held upon application of the recipient  
4 the court determines from the certification of **【2】** two physicians, or  
5 other acceptable evidence, that the recipient is no longer  
6 functionally **【incompetent】** incapacitated, the court may discharge  
7 the representative payee.

8       (b) Whenever it appears upon application and good cause shown  
9 by the representative payee or the welfare board that **【such】** the  
10 representative payee should be relieved of **【his】** the representative  
11 payee's duties, the court may discharge **【such】** the representative  
12 payee and, if the circumstances still require, appoint **【in his stead**  
13 **some other fit and proper person】** a replacement for the  
14 representative payee.

15 (cf: P.L.1964, c.155, s.7)

16

17       <sup>1</sup>**【127.】** 125.<sup>1</sup> Section 6 of P.L.1985, c.256 (C.45:14B-36) is  
18 amended to read as follows:

19       6. A valid authorization for the purpose of **【this act】** P.L.1985,  
20 c.256 (C.45:14B-30 et seq.) shall:

21       a. Be in writing;

22       b. Specify the nature of the information to be disclosed, the  
23 person authorized to disclose the information, to whom the  
24 information may be disclosed, the specific purposes for which the  
25 information may be used, both at the time of disclosure and at any  
26 time in the future;

27       c. Specify that the patient is aware of the statutory privilege  
28 accorded by section 28 of P.L.1966, c.282 (C.45:14B-28) to  
29 confidential communications between a patient and a licensed  
30 psychologist;

31       d. State that the consent is subject to revocation at any time;

32       e. Be signed by the patient or the person authorizing the  
33 disclosure. If the patient is adjudicated **【incompetent】**  
34 incapacitated or is deceased, the authorization shall be signed by the  
35 patient's legally authorized representative. When the patient is  
36 more than 14 years of age but has not yet reached **【the age of】**  
37 majority, the authorization shall be signed by the patient and by the  
38 patient's parent or legal guardian. When the patient is less than 14  
39 years of age, the authorization shall be signed only by the patient's  
40 parent or legal guardian; and

41       f. Contain the date upon which the authorization was signed.

42 (cf: P.L.1985, c.256, s.6)

43

44       <sup>1</sup>**【128.】** 126.<sup>1</sup> Section 1 of P.L.1953, c.269 (C.47:3-9) is  
45 amended to read as follows:



1       1. Whenever papers **【of the character hereinafter】** as described  
2 herein have been on file in the office of **【any】** the county clerk or  
3 register of deeds and mortgages for more than the number of years  
4 specified, the county clerk or register of deeds and mortgages, **【as**  
5 **the case may be】**, having charge thereof, may direct **【such】** the  
6 papers **【to】** be removed and destroyed **【or the records therein**  
7 **otherwise effectively obliterated】**, subject, however, to the  
8 limitations imposed herein **【in respect to said papers】**.

9       The following **【are the papers which】** may be removed and  
10 destroyed **【or the records therein effectively obliterated】** pursuant  
11 to the provisions of this act:

12       (a) Admissions to the bar, notices of intention to apply for  
13 **【such】** admissions, after one year;

14       (b) Appeals, notices **【of】** from local criminal courts, and other  
15 papers incidental thereto, where **【such】** the appeals were not heard  
16 and disposed of by specific court action, after five years;

17       (c) Bills of sale upon condition and other papers in the nature of  
18 conditional bills of sale, after six years; provided their expiration  
19 dates occurred prior to **【said】** the six years; and further provided, if  
20 their expiration dates shall have been extended by the acts of the  
21 parties and notice of **【such】** the acts shall have been given to the  
22 county recording officer, then after six years from their expiration  
23 dates as so extended; and further provided, that bills of sale under  
24 seal, after twenty-two years instead of after six years;

25       (d) Bonds given as bail and recognizances in connection with or  
26 in lieu of bail, and discharges of the same, after six years; provided  
27 notations thereof have been entered on the dockets;

28       (e) Bonds under orders of filiation, after twenty years;

29       (f) Certificates of authority filed by insurance and bonding  
30 companies, after six years;

31       (g) Chattel mortgages, after six years; provided their expiration  
32 dates occurred prior to **【said】** the six years; and further provided, if  
33 their expiration dates shall have been extended by the acts of the  
34 parties and notice of **【such】** the acts shall have been given to the  
35 county recording officer, then after six years from their expiration  
36 dates as so extended; and further provided, that chattel mortgages  
37 under seal, after twenty-two years instead of after six years;

38       (h) Contracts, plans, and specifications for the construction of  
39 buildings and other structures except for public buildings, after ten  
40 years;

41       (i) Convictions of disorderly persons, after five years;

42       (j) Costs, bills of costs taxed by the clerk, both civil and  
43 criminal, after twenty years; provided notations thereof have been  
44 entered on the dockets;

- 1 (k) Depositions, which are not within the scope of any  
2 applicable court rule and which do not pertain to any pending court  
3 action or proceeding, after ten years;
- 4 (l) Delinquent municipal tax returns for real and personal  
5 property and discharges therefor, after twenty years;
- 6 (m) Elections returns, certificates of, and all other papers relating  
7 to elections, including primary petitions, returns for primary and  
8 general elections, and statements of candidates' campaign managers  
9 and treasurers, after five years;
- 10 (n) Executions returned by the sheriff, both satisfied and  
11 unsatisfied, after twenty years; provided notations thereof have  
12 been entered on the dockets;
- 13 (o) Extradition papers including applications for writs of habeas  
14 corpus, except judgments thereon, after five years;
- 15 (p) Indictments, accusations, informations, and complaints in  
16 the nature thereof, if nolle prossed, or if the defendant charged  
17 thereby has been convicted or acquitted, or if the court has  
18 otherwise disposed of the same, after five years;
- 19 (q) Inquests conducted by the coroners, and their reports, and  
20 other papers relating to sudden deaths, after ten years;
- 21 (r) Insolvency proceedings, assignments for the benefit of  
22 creditors, inventories in **【such】** the proceedings, discharges of  
23 insolvents, and other papers relating or incidental to insolvency  
24 proceedings, after twenty years;
- 25 (s) Institutions and agencies, commitments other than in  
26 criminal or **【lunacy】** mental incapacity cases, reports, and other  
27 papers relating to institutions and agencies, after thirty years;
- 28 (t) Judgment transcripts for docketing, after twenty years;  
29 provided notations thereof have been entered on the dockets;
- 30 (u) Judgments, satisfactions and discharges, and releases of  
31 judgments, after twenty years; provided notations thereof have been  
32 entered on the dockets;
- 33 (v) Juries, lists of Grand and petit juries, and other papers  
34 relating to summoning, impaneling, and the charging of **【such】** the  
35 juries, after five years;
- 36 (w) Justices of the peace bonds, dockets, files, and papers, after  
37 twenty years;
- 38 (x) Licenses for hunting, including applications, after two years;
- 39 (y) Lien notices and claims other than mechanics' lien claims,  
40 and other than lien notices or notices in the nature of lien notices  
41 filed by any State, county, or municipal agency, after six years;
- 42 (z) Lists of causes for trial calendars, including notices of trial,  
43 after one year;
- 44 (aa) **【Lunacy proceedings】** Proceedings for commitments to  
45 psychiatric institutions, including medical and other reports relating  
46 thereto, after thirty years;
- 47 (bb) Mechanics' lien and construction lien claims, notices of  
48 intention, notices of unpaid balance and right to file lien, stop

1 notices, and all papers relating to mechanics' lien and construction  
2 lien claims, other than proceedings and actions in the courts brought  
3 to enforce **[such]** the lien claims, after six years;

4 (cc) Notary public certificates and qualifying papers, after five  
5 years;

6 (dd) Notices and other papers, authorized or required by law to  
7 be filed but not recorded and not involving title to real or personal  
8 property or to proceedings or actions in any court, after ten years;

9 (ee) Oaths of office of persons whose incumbency in office has  
10 ceased, after five years; provided the term of office of **[such]** the  
11 person expired prior to **[said]** the five years;

12 (ff) Permits to carry firearms which have expired, including the  
13 applications therefor, after two years;

14 (gg) Prison records and reports and papers relating thereto, after  
15 five years;

16 (hh) Probation reports and papers relating thereto, after five  
17 years;

18 (ii) Referees' reports, not forming a part of the record of a  
19 proceeding or action in court, after six years;

20 The **[said]** several periods of time shall be computed from the  
21 date of the filing of **[said]** the papers.

22 The county clerk and the register of deeds and mortgages **[,**  
23 respectively, in his discretion,**]** may retain on file **[in his office]**  
24 any of the **[said]** papers as a part of the permanent records of  
25 **[such]** the office.

26 (cf: P.L.1953, c.269, s.1)

27

28 <sup>1</sup>**[129.] 127.**<sup>1</sup> R.S.48:12-151 is amended to read as follows:

29 48:12-151. All actions accruing from injuries to persons caused  
30 by the wrongful act, neglect, or default of any railroad company  
31 owning or operating any railroad within this State, shall be  
32 commenced and sued within **[2]** two years next after the cause of  
33 action accrued, and not after, except for injuries to **[infants]** minors  
34 and **[incompetents]** incapacitated persons occurring subsequent to  
35 the effective date of **[this act]** R.S.48:12-151. Actions by an  
36 executor or administrator for injuries causing the death of the  
37 testator or intestate shall be commenced and sued within **[2]** two  
38 years next after the death, and not after. All actions for injury done  
39 to any property by fire communicated by an engine of any railroad  
40 company of any railroad within this State shall be commenced and  
41 sued within **[2]** two years after the cause of action accrued, and not  
42 after, except that action for injury occurring after the effective date  
43 of this act shall be commenced within **[6]** six years after the cause  
44 of action accrued, and not thereafter.

45 (cf: P.L.1962, c.198, s.157)

46

1       <sup>1</sup>**[130.] 128.** Section 7 of P.L.1971, c.317 (C.52:4B-7) is  
2 amended to read as follows:

3       7. Hearings on appeals from decisions of the Victims of Crime  
4 Compensation Agency involving issues of victim compensation  
5 shall be conducted by the Victims of Crime Compensation Review  
6 Board in the following manner:

7       a. Upon an application made to the board under the provisions  
8 of the "Criminal Injuries Compensation Act of 1971," P.L.1971,  
9 c.317, the board shall fix a time and place for a hearing on **[such]**  
10 the application and shall cause notice thereof to be given to the  
11 applicant.

12       b. For the purpose of carrying out the provisions of the  
13 "Criminal Injuries Compensation Act of 1971," P.L.1971, c.317, the  
14 board, or any member thereof, may hold **[such]** hearings, sit, and  
15 act at **[such]** times and places, and take **[such]** testimony as the  
16 board or **[such]** any member may deem advisable. Any member of  
17 the board may administer oaths or affirmations to witnesses. The  
18 board shall have full powers of subpoena and compulsion of  
19 attendance of witnesses and production of documents, except that  
20 no subpoena shall be issued except under the signature of a  
21 member of the board, and application to any court for aid in  
22 enforcing **[such]** the subpoena may be made in the name of the  
23 board by any member thereof. Subpoenas shall be served by any  
24 person designated by the board.

25       c. In any case in which the person entitled to make an  
26 application is a child, the application may be made on **[his]** the  
27 person's behalf by **[his]** the person's parent, guardian, or advocate.  
28 In any case in which the person entitled to make an application is  
29 **[mentally incompetent]** incapacitated, the application may be made  
30 on **[his]** the person's behalf by **[his]** the guardian, advocate, or  
31 **[such]** other individual authorized to administer **[his]** the person's  
32 estate.

33       d. Any person having a substantial interest in a proceeding may  
34 appear, produce evidence, and cross-examine witnesses in person or  
35 by **[his]** attorney.

36       e. The board may receive in evidence any statement, document,  
37 information, or matter that may in the opinion of the board  
38 contribute to its functions under the "Criminal Injuries  
39 Compensation Act of 1971," P.L.1971, c.317, but the board shall  
40 not be bound by the rules of evidence.

41       f. If any person has been convicted of any offense with respect  
42 to an act or omission on which a claim under the "Criminal Injuries  
43 Compensation Act of 1971," P.L.1971, c.317 is based, proof of that  
44 conviction shall be taken as conclusive evidence that the offense  
45 has been committed, unless an appeal or any proceeding with regard  
46 thereto is pending.

47 (cf: P.L.2007, c.95, s.8.)

1

2 <sup>1</sup>**[131.] 129.**<sup>1</sup> R.S.52:14-13 is amended to read as follows:

3 52:14-13. **[Whenever]** When an officer of this **[state]** State or a  
4 member of a **[state]** State board or commission **[appears to be**  
5 insane and is committed to an institution for the insane pursuant to  
6 law] is unable to perform the duties of the commission or  
7 appointment because of mental incapacity, the commission or  
8 appointment of **[such]** the officer or member shall become vacated  
9 and void, and a vacancy shall thereupon exist in **[such]** the office,  
10 the same as though the officer or member had resigned or died.

11 (cf: R.S.52:14-13)

12

13 <sup>1</sup>**[132.] 130.**<sup>1</sup> Section 1 of P.L.2002, c.118 (C.52:17B-139.7) is  
14 amended to read as follows:

15 1. A licensed pharmacist or other provider of oxygen or an  
16 oxygen delivery system who has supplied oxygen or an oxygen  
17 delivery system to a patient on an order from a licensed health care  
18 provider shall notify the appropriate fire department or company  
19 serving the municipality in which the patient resides of the name  
20 and address of the patient and the existence of the oxygen or  
21 oxygen delivery system at the patient's residence, in accordance  
22 with the provisions of **[this act]** P.L.2002, c.118 (C.52:17B-139.7  
23 et seq.).

24 a. Prior to notification, a pharmacist or other provider of oxygen  
25 or an oxygen delivery system shall inform the patient of the  
26 notification requirements of this act and obtain written informed  
27 consent from the patient for the notification.

28 If the patient is legally **[incompetent]** incapacitated, the  
29 pharmacist or other provider of oxygen or an oxygen delivery  
30 system shall inform an authorized representative of the patient of  
31 the notification requirements of **[this act]** P.L.2002, c.118 and  
32 obtain the written informed consent from the authorized  
33 representative.

34 b. Written informed consent shall consist of a statement, on a  
35 form or in a manner to be determined by the Director of the  
36 Division of Consumer Affairs in the Department of Law and Public  
37 Safety, signed by the patient or by an authorized representative of  
38 the patient, which acknowledges that the pharmacist or other  
39 provider of oxygen or an oxygen delivery system has provided the  
40 patient with information regarding the notification requirements of  
41 **[this act]** P.L.2002, c.118, and that the patient or authorized  
42 representative of the patient consents to the notification.

43 c. If the patient or **[his]** the patient's authorized representative  
44 declines to give **[his]** informed consent for the notification, the  
45 pharmacist or other provider of oxygen or an oxygen delivery  
46 system is required to inform the patient or **[his]** the patient's  
47 authorized representative that the patient is obligated to notify the

1 appropriate fire department or company of the patient's name and  
2 address and of the existence of oxygen or an oxygen delivery  
3 system at **his** the patient's residence.

4 d. If the patient or **his** the patient's authorized representative  
5 declines to give **his** informed consent, the pharmacist or other  
6 provider of oxygen or an oxygen delivery system is exempt from  
7 the requirement to make the notification and is permitted to supply  
8 the oxygen or oxygen delivery system as directed by the licensed  
9 health care provider's order.

10 e. A copy of the written informed consent shall be attached to  
11 the order for the oxygen or oxygen delivery system or otherwise  
12 included in the patient's record or, if written consent is not given,  
13 the pharmacist or other provider of oxygen or an oxygen delivery  
14 system shall note on the order or in the patient's record that  
15 informed consent was not given.

16 f. A pharmacist or other provider of oxygen or an oxygen  
17 delivery system who complies with the provisions of this act shall  
18 be immune from civil liability if the patient fails to notify the  
19 appropriate fire department or company of the patient's name and  
20 address and the existence of oxygen or an oxygen delivery system  
21 at the patient's residence.

22 (cf: P.L.2002, c.118, s.1)

23

24 <sup>1</sup>**[133.] 131.** Section 2 of P.L.1985, c.298 (C.52:27G-21) is  
25 amended to read as follows:

26 2. The Legislature finds and declares that private guardianship  
27 for an **incompetent** elderly adult who is incapacitated may not be  
28 feasible where there are no willing and responsible family members  
29 or friends to serve as guardian, that **this act** P.L.1985, c.298  
30 (C.52:27G-20 et seq.) establishes a public guardianship program for  
31 elderly adults for the purpose of furnishing guardianship services to  
32 elderly persons at reduced or no cost when appropriate, and that  
33 **this act** P.L.1985, c.298 intends to promote the general welfare  
34 by establishing a public guardianship system that permits elderly  
35 persons to determinatively participate as fully as possible in all  
36 decisions that affect them.

37 (cf: P.L.1989, c.248, s.1)

38

39 <sup>1</sup>**[134.] 132.** R.S.54:5-84 is amended to read as follows:

40 R.S.54:5-84. If a delinquent owner or lienor **shall be**, at the  
41 time of the **is** under the age of 18, a person with an intellectual  
42 disability, or a person who has been adjudicated incapacitated and  
43 in need of a guardianship available under Title 3B of the New  
44 Jersey Statutes, upon expiration of the time **limited** limit for the  
45 redemption of the real estate in which **he is interested**, an infant  
46 under the age of twenty-one years, or a person with an intellectual  
47 disability, or who has been judicially adjudged a person in need of a

1 guardian] that person has an interest, the right to redeem shall not  
2 be barred by service of notice as provided in this article so long as  
3 **[such impediment shall continue]** the minority, disability, or  
4 incapacity continues, but shall be barred only by an action to  
5 foreclose brought in the Superior Court.

6 (cf: P.L.2010, c.50, s.82)

7

8 <sup>1</sup>**[135.] 133.**<sup>1</sup> N.J.S.59:8-8 is amended to read as follows:

9 59:8-8. Time for presentation of claims. A claim relating to a  
10 cause of action for death or for injury or damage to person or to  
11 property shall be presented as provided in this chapter not later than  
12 the **[ninetieth]** 90th day after accrual of the cause of action. After  
13 the expiration of six months from the date notice of claim is  
14 received, the claimant may file suit in an appropriate court of law.  
15 The claimant shall be forever barred from recovering against a  
16 public entity or public employee if:

17 a. **[He]** The claimant failed to file **[his]** the claim with the  
18 public entity within 90 days of accrual of **[his]** the claim except as  
19 otherwise provided in **[section]** N.J.S.59:8-9; or

20 b. Two years have elapsed since the accrual of the claim; or

21 c. The claimant or **[his]** the claimant's authorized representative  
22 entered into a settlement agreement with respect to the claim.

23 Nothing in this section shall prohibit **[an infant or incompetent]**  
24 a minor or a person who is mentally incapacitated from  
25 commencing an action under this act within the time limitations  
26 contained herein, after **[his coming to or being of full age]**  
27 reaching majority or **[sane mind]** returning to mental capacity.

28 (cf: P.L.1994, c.49, s.4)

29

30 <sup>1</sup>**[136.] 134.**<sup>1</sup> The following are repealed:

31 R.S.30:9-1.1;

32 R.S.30:9-2;

33 R.S.30:9-29;

34 R.S.44:5-11; and

35 R.S.44:5-19.

36

37 <sup>1</sup>**[137.] 135.**<sup>1</sup> This act shall take effect immediately.

38

39

40

41

42 Changes pejorative terminology referring to mental capacity of  
43 individuals.

# ASSEMBLY, No. 3357

## STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED OCTOBER 11, 2012

**Sponsored by:**

**Assemblywoman VALERIE VAINIERI HUTTLE**  
**District 37 (Bergen)**

**SYNOPSIS**

Changes pejorative terminology referring to mental capacity of individuals.

**CURRENT VERSION OF TEXT**

As introduced.





A3357 VAINIERI HUTTLE

2

1 AN ACT concerning terminology referring to the mental capacity of  
2 individuals and revising various parts of statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 20 of P.L.1982, c.77 (C.2A:4A-39) is amended to  
8 read as follows:

9 20. a. A juvenile shall have the right, as provided by the Rules  
10 of Court, to be represented by counsel at every critical stage in the  
11 proceeding which, in the opinion of the court may result in the  
12 institutional commitment of the juvenile.

13 b. During every court proceeding in a delinquency case, the  
14 waiving of any right afforded to a juvenile shall be **[done]**  
15 accomplished in the following manner:

16 (1) A juvenile who is found to **[be competent]** have mental  
17 capacity may not waive any rights except in the presence of and  
18 after consultation with counsel, and unless a parent has first been  
19 afforded a reasonable opportunity to consult with the juvenile and  
20 the juvenile's counsel regarding this decision. The parent or  
21 guardian may not waive the rights of a **[competent]** juvenile found  
22 to have mental capacity.

23 (2) Any such waiver shall be executed in writing or recorded.  
24 Before the court may accept a waiver, the court shall question the  
25 juvenile and **[his]** the juvenile's counsel to determine if the  
26 juvenile is knowingly, willingly, and voluntarily waiving **[his]** any  
27 right. If the court finds after questioning the juvenile that the  
28 waiver is not being made voluntarily and intelligently, the waiver  
29 shall be denied.

30 (3) **[An incompetent]** A juvenile who is found to lack mental  
31 capacity may not waive any right. A guardian ad litem shall be  
32 appointed for the juvenile who may waive rights after consultation  
33 with the juvenile and the juvenile's counsel **[for the juvenile, and**  
34 **the juvenile]**.

35 (4) Waivers shall be executed in the language regularly spoken  
36 by the juvenile.

37 (cf: P.L.1982, c.77, s.20)

38

39 2. N.J.S.2A:14-21 is amended to read as follows:

40 2A:14-21. If **[any]** a person entitled to [any of the actions or  
41 proceedings] commence an action or proceeding specified in  
42 N.J.S.2A:14-1 to 2A:14-8 or N.J.S.2A:14-16 to 2A:14-20 or to a  
43 right or title of entry under N.J.S.2A:14-6 is **[or shall be,]** under the  
44 age of 18 years or a person who has a mental disability that

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 prevents the person from understanding his legal rights or  
2 commencing a legal action at the time [of any such] the cause of  
3 action or right or title [accruing, under the age of 21 years, or  
4 insane, such] accrues, the person may commence [such] the action  
5 or make [such] the entry, within [such] the time as limited by  
6 those statutes, after [his coming to or being of full age or of sane  
7 mind] reaching majority or having the mental capacity to pursue the  
8 person's lawful rights. Notwithstanding the provisions of this  
9 section to the contrary, an action by or on behalf of a minor that has  
10 accrued for medical malpractice for injuries sustained at birth shall  
11 be commenced prior to the minor's 13th birthday, as provided in  
12 N.J.S.2A:14-2.

13 (cf: P.L.2004, c.17, s.4)

14

15 3. N.J.S.2A:14-32 is amended to read as follows:

16 2A:14-32. If any person having a right or title to real estate  
17 [shall,] is under the age of 18, or has been adjudicated  
18 incapacitated, or is outside the United States for purposes other than  
19 a military tour of duty at the time [such] the right or title first  
20 accrued or descended, [be either not of sound mind or under the age  
21 of 21 years, or without the United States, he, and his heirs,] that  
22 person may, notwithstanding the fact that the periods of time  
23 [mentioned] specified in [sections 2A:14-30 and 2A:14-31 of this  
24 title] N.J.S.2A:14-30 and N.J.S.2A:14-31 have expired, bring [his  
25 or their] an action to enforce [his or their] the right or title, [if  
26 such] provided the action [shall be] is commenced within [5] five  
27 years after [his] the disability is removed or [he comes] the person  
28 is physically present within the United States[, but not thereafter].

29 (cf: N.J.S.2A:14-32)

30

31 4. N.J.S.2A:15-1 is amended to read as follows:

32 2A:15-1. Every person [of full age and sound mind] who has  
33 reached the age of majority pursuant to section 3 of P.L.1972, c.81  
34 (C.9:17B-3) and has the mental capacity may prosecute or defend  
35 any action in any court, in person or through another duly admitted  
36 to the practice of law in this [state] State.

37 (cf: N.J.S.2A:15-1)

38

39 5. N.J.S.2A:16-7 is amended to read as follows:

40 2A:16-7. When a judgment of the [superior court shall be]  
41 Superior Court is entered for a conveyance, release, or acquittance  
42 of real estate or an interest therein, and the party against whom the  
43 judgment [shall be] is entered [shall not] has failed to comply  
44 [therewith] by the time [appointed] specified in the judgment, or  
45 within 15 days after entry of the judgment if no time [be  
46 appointed] is specified therein, the judgment shall [be considered

1 and taken, in all courts of the state to] have the same operation and  
2 effect in all courts [, and be available] as if the conveyance,  
3 release, or acquittance had been executed [conformably to] in  
4 conformance with the judgment, [and this] notwithstanding any  
5 disability of [such] the party [by infancy, lunacy, coverture]  
6 because of not having reached the age of majority pursuant to  
7 section 3 of P.L.1972, c.81 (C.9:17B-3), mental incapacity, or  
8 otherwise.

9 (cf: N.J.S.2A:16-7)

10

11 6. N.J.S.2A:16-55 is amended to read as follows:

12 2A:16-55. A person interested as or through an executor,  
13 administrator, trustee, guardian, receiver, assignee for the benefit of  
14 creditors, or other fiduciary, creditor, devisee, legatee, heir, next of  
15 kin, or cestui que trust, in the administration of a trust or the estate  
16 of a decedent, [an infant, lunatic,] a minor, a person who is  
17 mentally incapacitated, a person who is insolvent, or other person,  
18 may have a declaration of rights or legal relations in respect thereto,  
19 to:

20 a. Ascertain any class of creditors, devisees, legatees, heirs, next  
21 of kin, or others; or

22 b. Direct the executor, administrator, trustee, guardian, receiver,  
23 assignee for the benefit of creditors, or other fiduciary to do or  
24 abstain from doing any particular act in his fiduciary capacity; or

25 c. Determine any question arising in the administration of the  
26 estate, trust, or guardianship, including the construction of wills and  
27 other writings.

28 (cf: N.J.S.2A:16-55)

29

30 7. N.J.S.2A:48-2 is amended to read as follows:

31 2A:48-2. No action under this article shall be instituted unless  
32 commenced within [3] three months after the loss of or injury to  
33 the property. If any person entitled to such an action is, at the time  
34 [of any such cause of] the action [accruing, under the age of 21  
35 years or insane, he] accrues, under the age of 18 or a person who  
36 has a mental disability that prevents the person from understanding  
37 his legal rights or commencing a legal action, the person may  
38 commence [such] the action within [3] three years after [his  
39 coming to or being of full age or of sane mind] reaching majority or  
40 having the mental capacity to pursue the person's lawful rights.

41 (cf: N.J.S.2A:48-2)

42

43 8. N.J.S.2A:62-8 is amended to read as follows:

44 2A:62-8. If a defendant was, either at the time of the entry of a  
45 default against [him] the defendant or at the time of the entry of the  
46 judgment, [an infant] a minor or an [incompetent] incapacitated  
47 person, [he] the defendant, or [his] the defendant's heirs, may,

1 unless **【he】** the defendant was represented in the action by a  
2 guardian or a guardian ad litem **【appearing for him】**, at any time  
3 within **【2】** two years after the termination of **【his】** the defendant's  
4 disability, appear in the action and apply for relief from the  
5 judgment.

6 (cf: N.J.S.2A:62-8)

7

8 9. N.J.S.2A:62-10 is amended to read as follows:

9 2A:62-10 If the title to the lands which is the subject of the  
10 judgment sought to be opened pursuant to **【sections】** N.J.S.2A:62-8  
11 and N.J.S.2A:62-9 **【of this title】**, has, by **【such】** the judgment or in  
12 consequence thereof, been conveyed to a purchaser for value or  
13 mortgaged to a mortgagee for value, the **【same】** title shall not be  
14 affected by either the opening or vacation of the judgment. The  
15 vacation of the judgment shall operate only against the plaintiff  
16 named in the judgment, **【his】** the plaintiff's heirs, executors, and  
17 administrators, to compel compensation to the **【infant】** minor, or  
18 **【incompetent】** incapacitated person to the extent of the value of  
19 **【his】** the plaintiff's interest in the affected **【lands】** real property at  
20 the time the **【same were】** property was so conveyed or mortgaged.

21 (cf: N.J.S.2A:62-10)

22

23 10. N.J.S.2A:62-19 is amended to read as follows:

24 2A:62-19. The final determination and judgment in an action  
25 authorized by **【section】** N.J.S.2A:62-17 **【of this title】** shall fix and  
26 settle the rights of all the parties in **【said】** the estate in remainder in  
27 **【said】** the lands or in **【said】** the remainder interest in **【said】** the  
28 personalty, and **【the same】** shall be binding and conclusive on all  
29 the parties to the action; but if any defendant to **【such】** the suit  
30 **【shall be】** is either at the time of the entry of a default or of  
31 judgment against **【him】** the defendant, **【an infant】** a minor or an  
32 **【incompetent】** incapacitated person, **【such】** the defendant, **【his】**  
33 the defendant's heirs or assigns may, unless **【he】** the defendant was  
34 represented in the action by a guardian or a guardian ad litem  
35 **【appearing for him】**, at any time within **【2】** two years after the  
36 termination of **【such】** the disability, appear in **【such】** the action  
37 and apply for relief from the judgment.

38 (cf: N.J.S.2A:62-19)

39

40 11. N.J.S.2A:67-13 is amended to read as follows:

41 2A:67-13. Except as provided in **【section】** N.J.S.2A:67-14 **【of**  
42 this title, any】 , a person **【hereinafter specified】** may prosecute a  
43 writ of habeas corpus, **【according to the provisions of】** in  
44 accordance with this chapter, to inquire into the cause of **【his】** the  
45 person's imprisonment or restraint, if the person is:

- 1 a. **【Any person】** committed, detained, confined, or restrained of  
2 **【his】** liberty, within this **【state】** State, for **【any】** a criminal or  
3 supposed criminal matter;
- 4 b. **【Any person】** in custody by virtue of civil process issued out  
5 of **【any】** a court in this **【state】** State;
- 6 c. **【Any person】** committed, detained, confined, or restrained of  
7 **【his】** liberty, within this **【state】** State, under any pretense  
8 **【whatsoever】**;
- 9 d. **【Any person】** in confinement on a charge of a criminal  
10 offense, which is of a bailable nature, for the purpose of **【putting in**  
11 **such】** posting bail; or
- 12 e. **【Any person】** confined in **【any hospital for the insane, within**  
13 **this state】** a psychiatric facility, for the purpose of determining **【his**  
14 **sanity or insanity;】** whether the person is in need of commitment to  
15 treatment.
- 16 f. **【Any person committed to any institution of this state,**  
17 **pursuant to law, but not for a fixed period of time, for the purpose**  
18 **of determining whether the refusal of the chief executive officer**  
19 **thereof to discharge him therefrom is justified;】** (Deleted by  
20 amendment, P.L. , c. ) (pending before the Legislature as this  
21 bill)
- 22 g. **【Any person who has left any charitable institution of this**  
23 **state without having been finally discharged therefrom pursuant to**  
24 **law and who was committed or admitted to such institution,**  
25 **pursuant to law, for a permanent or determinable period of time, for**  
26 **the purpose of determining whether such person should be released**  
27 **from the commitment;】** (Deleted by amendment, P.L. , c. )  
28 (pending before the Legislature as this bill)
- 29 h. **【A superintendent or chief executive officer of any charitable**  
30 **institution of this state, for the purpose of obtaining the release from**  
31 **custody or restraint of a person specified in subsection g. of this**  
32 **section and his return to the custody of such institution.】** (Deleted  
33 by amendment, P.L. , c. ) (pending before the Legislature as this  
34 bill)
- 35 If sufficient cause appears, the complaint may be filed and the  
36 writ may be prosecuted by another on behalf of the person entitled  
37 to prosecute the writ.  
38 (cf: N.J.S.2A:67-13)

39

40 12. N.J.S.2A:67-27 is amended to read as follows:

41 2A:67-27. When the writ is returned, the court may hold the  
42 hearing immediately, unless the validity of a detention on any civil  
43 process, or the **【sanity or insanity】** mental capacity of the party is to  
44 be determined, and may, in any case, set a date for the hearing,  
45 which shall be not more than **【5】** five days after the return of the  
46 writ unless for good cause additional time is allowed.

1 Notice of the time and place set for a later hearing shall be  
2 served at least **[2]** two days **[prior thereto]** before the hearing or  
3 **[at such]** earlier **[time]**, as the court may order, by the applicant  
4 upon the defendant, and (a) if the party is in custody on any  
5 criminal matter, upon the county prosecutor of the county  
6 **[wherein]** in which the alleged offense was committed, or (b) if the  
7 party is in custody on any civil process, upon each person having an  
8 interest in continuing the confinement or restraint or upon **[his]** the  
9 party's attorney, or (c) if the party is in custody of any **[hospital for**  
10 **the insane]** psychiatric facility or other institution, **[service shall be**  
11 **made]** upon the person or persons **[upon]** whose application **[he]**  
12 was **[committed]** the basis for commitment to the **[hospital]**  
13 facility or institution, and upon the medical director or other head  
14 officer of the **[hospital]** facility or institution.  
15 (cf: N.J.S.2A:67-27)

16

17 13. N.J.S.2A:67-28 is amended to read as follows:

18 2A:67-28. In all cases in which the **[sanity or insanity]** mental  
19 capacity of the party is to be determined, the testimony shall be  
20 taken orally and the judge may hear the matter without a jury or  
21 may direct that the action be tried by a jury called from the general  
22 panel or, if **[such a jury is]** not available, by a jury specially  
23 summoned as in other actions.

24 In all other cases, the judge may hear the matter summarily on  
25 the complaint, return and answer to the return, **[if any,]** or **[may]**  
26 require that testimony be offered orally **[as in other actions]** and,  
27 on its own motion, may summon witnesses and require any person  
28 to produce **[any]** documents, records, or other writings.

29 In **[any]** a proceeding under subsection d. of **[section]**  
30 N.J.S.2A:67-13 **[of this title]**, the judge may take testimony  
31 concerning the truth of **[the affidavit or]** affidavits and proofs upon  
32 which the order for process, under which the defendant therein is  
33 held, **[was made and]** **[said]** process issued.

34 (cf: N.J.S.2A:67-28)

35

36 14. N.J.S.2A:67-29 is amended to read as follows:

37 2A:67-29. In any proceeding under subsections a., b., or c. of  
38 **[section]** N.J.S.2A:67-13 **[of this title]**, if no cause is shown for  
39 the imprisonment or restraint or for the continuation thereof, the  
40 judge shall discharge the party from the confinement or restraint  
41 **[under which he is held]**. If the party is not entitled to a discharge  
42 and is not bailed, the party shall be remanded by the judge **[shall**  
43 **remand him]** to the custody or **[place him]** placed under the  
44 restraint from which **[he was]** the party was taken, **[if the person**  
45 under whose custody he was is legally entitled thereto, and if not so

1 entitled, such party shall be committed by] so long as custody or  
2 restraint is lawful. If the custody or restraint is not lawful, the  
3 judge shall commit the party to the custody of [such other] the  
4 officer or person [who by law is] lawfully entitled thereto.

5 In any proceedings under subsections a., b., c., or d. of [section]  
6 N.J.S.2A:67-13 [of this title], if it appears that the [prisoner]  
7 person is entitled to be bailed, the judge shall [forthwith] discharge  
8 the [prisoner from his imprisonment] person immediately, upon  
9 taking [his] a secured or bonded recognizance in [such sum and  
10 with such surety or sureties] an amount as the judge may approve  
11 for [his] the person's appearance, as the circumstances may  
12 require, and the judge shall then certify the writ with the return and  
13 the recognizance to the court where the appearance is to be made.

14 In any proceeding under subsection d. of [section] N.J.S.2A:67-  
15 13[of this title], the judge shall discharge the party in custody if the  
16 process was improperly or improvidently issued [or should not  
17 have been issued against such party].

18 In any proceeding under subsection e. of [section] N.J.S.2A:67-  
19 13 [of this title], the [inmate] person shall not be discharged  
20 unless [he is] found not to be [sane] dangerous to self or  
21 dangerous to others or to property, either by the judge, if the  
22 hearing is held without a jury, or by [the] unanimous verdict of the  
23 jury.

24 [In any proceeding under subsection f. of section 2A:67-13 of  
25 this title, the inmate shall not be discharged from the commitment  
26 unless the judge finds he is not afflicted as stated in the order of  
27 commitment.

28 In any proceeding under subsection g. or subsection h. of section  
29 2A:67-13 of this title, the judge, in his discretion, may discharge the  
30 person committed from the commitment, or if such person is under  
31 confinement or restraint, release him therefrom and order his return  
32 to the institution to which he was committed or admitted, depending  
33 upon the best interests of such person and his parents, guardians or  
34 custodians.]

35 No person shall be entitled to a discharge because of any  
36 informality or insufficiency in the original arrest or commitment.  
37 (cf: N.J.S.2A:67-29)

38

39 15. N.J.S.2A:81-2 is amended to read as follows:

40 2A:81-2. [When 1 party to any] In a civil action [is a lunatic  
41 suing or defending] that is commenced or defended by a guardian  
42 on behalf of a person who is mentally incapacitated or [when 1  
43 party sues or is sued in] by a personal representative [capacity] on  
44 behalf of a decedent, any other party who asserts a claim or an  
45 affirmative defense against [such lunatic] the person who is

1 mentally incapacitated or against the personal representative, that is  
2 supported by oral testimony of a promise, statement, or act of the  
3 **【lunatic while of sound mind】** person who is mentally incapacitated  
4 before the onset of mental incapacity, or of the decedent, shall be  
5 required to establish the same by clear and convincing proof.  
6 (cf: P.L.1960, c.52, s.45)  
7

8 16. Section 20 of P.L.1960, c.52 (C.2A:84A-20) is amended to  
9 read as follows:  
10 21. Rule 26.

11 (1) General rule. Subject to Rule 37 and except as otherwise  
12 provided by paragraph 2 of this rule communications between  
13 lawyer and his client in the course of that relationship and in  
14 professional confidence, are privileged, and a client has a privilege  
15 (a) to refuse to disclose any such communication, and (b) to prevent  
16 his lawyer from disclosing it, and (c) to prevent any other witness  
17 from disclosing such communication if it came to the knowledge of  
18 such witness (i) in the course of its transmittal between the client  
19 and the lawyer, or (ii) in a manner not reasonably to be anticipated,  
20 or (iii) as a result of a breach of the lawyer-client relationship, or  
21 (iv) in the course of a recognized confidential or privileged  
22 communication between the client and such witness. The privilege  
23 shall be claimed by the lawyer unless otherwise instructed by the  
24 client or his representative; the privilege may be claimed by the  
25 client in person, or if **【incompetent】** the client is incapacitated or  
26 deceased, by his guardian or personal representative. Where a  
27 corporation or association is the client having the privilege and it  
28 has been dissolved, the privilege may be claimed by its successors,  
29 assigns, or trustees in dissolution.

30 (2) Exceptions. Such privilege shall not extend (a) to a  
31 communication in the course of legal service sought or obtained in  
32 aid of the commission of a crime or a fraud, or (b) to a  
33 communication relevant to an issue between parties all of whom  
34 claim through the client, regardless of whether the respective claims  
35 are by testate or intestate succession or by inter vivos transaction, or  
36 (c) to a communication relevant to an issue of breach of duty by the  
37 lawyer to his client, or by the client to his lawyer. Where 2 or more  
38 persons have employed a lawyer to act for them in common, none  
39 of them can assert such privilege as against the others as to  
40 communications with respect to that matter.

41 (3) Definitions. As used in this rule (a) "client" means a person  
42 or corporation or other association that, directly or through an  
43 authorized representative, consults a lawyer or the lawyer's  
44 representative for the purpose of retaining the lawyer or securing  
45 legal service or advice from him in his professional capacity; and  
46 includes **【an incompetent】** a person who is incapacitated whose  
47 guardian so consults the lawyer or the lawyer's representative **【in】**



1 on behalf of the **【incompetent】** person who is incapacitated, (b)  
2 "lawyer" means a person authorized, or reasonably believed by the  
3 client to be authorized to practice law in any State or nation the law  
4 of which recognizes a privilege against disclosure of confidential  
5 communications between client and lawyer. A communication  
6 made in the course of the relationship between lawyer and client  
7 shall be presumed to have been made in professional confidence  
8 unless knowingly made within the hearing of some person whose  
9 presence nullified the privilege.  
10 (cf: P.L.1960, c.52, s.20)

11

12 17. Section 22 of P.L.1960, c.52 (C.2A:84A-22) is amended to  
13 read as follows:

14 22. Rule 28. Marital privilege--Confidential communications.

15 No person shall disclose any communication made in confidence  
16 between such person and his or her spouse unless both shall consent  
17 to the disclosure or unless the communication is relevant to an issue  
18 in an action between them or in a criminal action or proceeding in  
19 which either spouse consents to the disclosure, or in a criminal  
20 action or proceeding coming within **【Rule 23(2)】** section 17 of  
21 P.L.1960, c.52 (C.2A:84A-17). When a spouse is **【incompetent】**  
22 incapacitated or deceased, consent to the disclosure may be given  
23 for such spouse by the guardian, executor, or administrator. The  
24 requirement for consent shall not terminate with divorce or  
25 separation. A communication between spouses while living  
26 separate and apart under a divorce from bed and board shall not be a  
27 privileged communication.  
28 (cf: P.L.1992, c.142, s.2)

29

30 18. Section 1 of P.L.1968, c.185 (C.2A:84A-22.1) is amended to  
31 read as follows:

32 1. As used in this act, (a) "patient" means a person who, for the  
33 sole purpose of securing preventive, palliative, or curative  
34 treatment, or a diagnosis preliminary to such treatment, of **【his】** the  
35 patient's physical or mental condition, consults a physician, or  
36 submits to an examination by a physician; (b) "physician" means a  
37 person authorized or reasonably believed by the patient to be  
38 authorized, to practice medicine in the State or jurisdiction in which  
39 the consultation or examination takes place; (c) "holder of the  
40 privilege" means the patient while alive and not under the  
41 guardianship or the guardian of the person of **【an incompetent】** a  
42 patient who is incapacitated, or the personal representative of a  
43 deceased patient; (d) "confidential communication between  
44 physician and patient" means such information transmitted between  
45 physician and patient, including information obtained by an  
46 examination of the patient, as is transmitted in confidence and by a  
47 means which, so far as the patient is aware, discloses the

1 information to no third persons other than those reasonably  
2 necessary for the transmission of the information or the  
3 accomplishment of the purpose for which it is transmitted.  
4 (cf: P.L.1968, c. 185, s.1)

5  
6 19. Section 4 of P.L.1987, c.169 (C.2A:84A-22.15) is amended  
7 to read as follows:

8 4. Subject to Rule 37 of the Rules of Evidence, a victim  
9 counselor has a privilege not to be examined as a witness in any  
10 civil or criminal proceeding with regard to any confidential  
11 communication. The privilege shall be claimed by the counselor  
12 unless otherwise instructed by prior written consent of the victim.  
13 When a victim is **【incompetent】** incapacitated or deceased consent  
14 to disclosure may be given by the guardian, executor, or  
15 administrator except when the guardian, executor, or administrator  
16 is the defendant or has a relationship with the victim such that **【he】**  
17 the guardian, executor, or administrator has an interest in the  
18 outcome of the proceeding. The privilege may be knowingly  
19 waived by a juvenile. In any instance where the juvenile is, in the  
20 opinion of the judge, incapable of knowing consent, the parent or  
21 guardian of the juvenile may waive the privilege on behalf of the  
22 juvenile, provided that the parent or guardian is not the defendant  
23 and does not have a relationship with the defendant such that he has  
24 an interest in the outcome of the proceeding. A victim counselor or  
25 a victim cannot be compelled to provide testimony in any civil or  
26 criminal proceeding that would identify the name, address, location,  
27 or telephone number of a domestic violence shelter or any other  
28 facility that provided temporary emergency shelter to the victim of  
29 the offense or transaction that is the subject of the proceeding  
30 unless the facility is a party to the proceeding.  
31 (cf: P.L.1987, c.169, s.4)

32  
33 20. Section 4 of P.L.1979, c.484 (C.3A:25-42) is amended to  
34 read as follows:

35 4. A disclaimer on behalf of a decedent, minor, or **【mentally-**  
36 **incompetent】** incapacitated person may be made by the personal  
37 representative of the decedent or the guardian of the estate of the  
38 minor or **【mentally-incompetent】** incapacitated person. Such  
39 disclaimer shall not be effective unless, prior thereto, the personal  
40 representative or guardian has been authorized to disclaim by the  
41 court having jurisdiction of the estate of the decedent, minor, or  
42 **【mentally-incompetent】** incapacitated person, after finding that it is  
43 advisable and will not materially prejudice the rights of creditors,  
44 devisees, heirs, or beneficiaries of the decedent, the minor, or  
45 **【mentally-incompetent】** incapacitated person or his creditors, as the  
46 case may be.  
47 (cf: P.L.1979, c.484, s.4)

1 21. N.J.S.3B:1-2 is amended to read as follows:

2 3B:1-2. "Incapacitated individual" means an individual who is  
3 impaired by reason of mental illness or **[mental deficiency]**  
4 intellectual disability to the extent that **[he]** the individual lacks  
5 sufficient capacity to govern himself and manage his affairs.

6 The term incapacitated individual is also used to designate an  
7 individual who is impaired by reason of physical illness or  
8 disability, chronic use of drugs, chronic alcoholism, or other cause  
9 (except minority) to the extent that **[he]** the individual lacks  
10 sufficient capacity to govern himself and manage **[his]** the  
11 individual's affairs.

12 The terms incapacity and incapacitated **[individual]** refer to the  
13 state or condition of an incapacitated individual as hereinbefore  
14 defined.

15 "Intellectual disability" means a significant subaverage general  
16 intellectual functioning existing concurrently with deficits in  
17 adaptive behavior which are manifested during the development  
18 period.

19 "Issue" of an individual means a descendant as defined in  
20 N.J.S.3B:1-1.

21 "Joint tenants with the right of survivorship" means co-owners of  
22 property held under circumstances that entitle one or more to the  
23 whole of the property on the death of the other or others, but  
24 excludes forms of co-ownership in which the underlying ownership  
25 of each party is in proportion to that party's contribution.

26 "Local administration" means administration by a personal  
27 representative appointed in this State.

28 "Local fiduciary" means any fiduciary who has received letters  
29 in this State and excludes foreign fiduciaries who acquire the power  
30 of local fiduciary pursuant to this title.

31 "Minor" means an individual who is under 18 years of age.

32 "Nonresident decedent" means a decedent who was domiciled in  
33 another jurisdiction at the time of his death.

34 "Parent" means any person entitled to take or who would be  
35 entitled to take if the child, natural or adopted, died without a will,  
36 by intestate succession from the child whose relationship is in  
37 question and excludes any person who is a stepparent, resource  
38 family parent, or grandparent.

39 "Per capita." If a governing instrument requires property to be  
40 distributed "per capita," the property is divided to provide equal  
41 shares for each of the takers, without regard to their shares or the  
42 right of representation.

43 "Payor" means a trustee, insurer, business entity, employer,  
44 government, governmental agency or subdivision, or any other  
45 person authorized or obligated by law or a governing instrument to  
46 make payments.

47 "Person" means an individual or an organization.

1 "Per Stirpes." If a governing instrument requires property to be  
2 distributed "per stirpes," the property is divided into as many equal  
3 shares as there are: (1) surviving children of the designated  
4 ancestor; and (2) deceased children who left surviving descendants.  
5 Each surviving child is allocated one share. The share of each  
6 deceased child with surviving descendants is divided in the same  
7 manner, with subdivision repeating at each succeeding generation  
8 until the property is fully allocated among surviving descendants.

9 "Personal representative" includes executor, administrator,  
10 successor personal representative, special administrator, and  
11 persons who perform substantially the same function under the law  
12 governing their status. "General personal representative" excludes  
13 special administrator.

14 "Representation; Per Capita at Each Generation." If an applicable  
15 statute or a governing instrument requires property to be distributed  
16 "by representation" or "per capita at each generation," the property  
17 is divided into as many equal shares as there are: (1) surviving  
18 descendants in the generation nearest to the designated ancestor  
19 which contains one or more surviving descendants; and (2)  
20 deceased descendants in the same generation who left surviving  
21 descendants, if any. Each surviving descendant in the nearest  
22 generation is allocated one share. The remaining shares, if any, are  
23 combined and then divided in the same manner among the surviving  
24 descendants of the deceased descendants, as if the surviving  
25 descendants who were allocated a share and their surviving  
26 descendants had predeceased the designated ancestor.

27 "Resident creditor" means a person domiciled in, or doing  
28 business in this State, who is, or could be, a claimant against an  
29 estate.

30 "Security" includes any note, stock, treasury stock, bond,  
31 mortgage, financing statement, debenture, evidence of indebtedness,  
32 certificate of interest or participation in an oil, gas, or mining title  
33 or lease or in payments out of production under the title or lease,  
34 collateral, trust certificate, transferable share, voting trust certificate  
35 or, in general, any interest or instrument commonly known as a  
36 security or as a security interest or any certificate of interest or  
37 participation, any temporary or interim certificate, receipt or  
38 certificate of deposit for, or any warrant or right to subscribe to or  
39 purchase, any of the foregoing.

40 "Stepchild" means a child of the surviving, deceased, or former  
41 spouse who is not a child of the decedent.

42 "Successor personal representative" means a personal  
43 representative, other than a special administrator, who is appointed  
44 to succeed a previously appointed personal representative.

45 "Successors" means those persons, other than creditors, who are  
46 entitled to real and personal property of a decedent under **[his]** a  
47 decedent's will or the laws governing intestate succession.

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14

1 "Testamentary trustee" means a trustee designated by will or  
2 appointed to exercise a trust created by will.

3 "Testator" includes an individual and means male or female.

4 "Trust" includes any express trust, private or charitable, with  
5 additions thereto, wherever and however created. It also includes a  
6 trust created by judgment under which the trust is to be  
7 administered in the manner of an express trust. "Trust" excludes  
8 other constructive trusts, and it excludes resulting trusts,  
9 guardianships, personal representatives, trust accounts created  
10 under the "Multiple-party Deposit Account Act," P.L.1979, c.491  
11 (C.17:16I-1 et seq.), gifts to minors under the "New Jersey Uniform  
12 Gifts to Minors Act," P.L.1963, c.177 (C.46:38-13 et seq.), or the  
13 "New Jersey Uniform Transfers to Minors Act," R.S.46:38A-1 et  
14 seq., business trusts providing for certificates to be issued to  
15 beneficiaries, common trusts, security arrangements, liquidation  
16 trusts, and trusts for the primary purpose of paying debts, dividends,  
17 interest, salaries, wages, profits, pensions or employee benefits of  
18 any kind, and any arrangement under which a person is nominee or  
19 escrowee for another.

20 "Trustee" includes an original, additional or successor trustee,  
21 whether or not appointed or confirmed by court.

22 "Ward" means an individual for whom a guardian is appointed or  
23 an individual under the protection of the court.

24 "Will" means the last will and testament of a testator or testatrix  
25 and includes any codicil and any testamentary instrument that  
26 merely appoints an executor, revokes or revises another will,  
27 nominates a guardian, or expressly excludes or limits the right of a  
28 person or class to succeed to property of the decedent passing by  
29 intestate succession.

30 (cf: P.L.2005, c.160, s.1)

31

32 22. N.J.S.3B:11-5 is amended to read as follows:

33 3B:11-5. When a trustee appointed by a will probated in the  
34 surrogate's court of any county or a trustee appointed under a trust  
35 inter vivos as to real or personal property situate in any county fails  
36 or refuses to act or dies before the execution or completion of the  
37 trust **【committed to him】**, or absconds or removes from this State,  
38 or is adjudicated **【a mental incompetent】** an incapacitated  
39 individual or becomes in any manner legally incapable of executing  
40 the trust, the Superior Court may remove the trustee**【**, if he be  
41 alive,**】** and appoint a suitable person or persons to execute the trust,  
42 and the trustee or trustees so appointed shall be entitled to the trust  
43 estate as fully and in the same manner as the original trustee was  
44 and shall have all the power and discretion of the original trustee.

45 (cf: P.L.1981, c.405, s.3B:11-5)

46

47 23. Section 3 of P.L.1985, c.424 (C.3B:11-21) is amended to  
48 read as follows:

- 1       3. This act shall be liberally construed and applied to promote  
2 its underlying purposes and policies, which are among others to:
- 3       a. encourage the orderly establishment of community trusts for  
4 the benefit of persons with severe chronic disabilities;
- 5       b. ensure that community trusts are administered properly and  
6 that the managing boards of the trusts are free from conflicts of  
7 interest, except that an unpaid member of the managing board of a  
8 nonprofit corporation provider shall not be deemed to be in conflict  
9 as a member of the managing board of a trust;
- 10       c. facilitate sound administration of trust funds for persons with  
11 severe chronic disabilities by allowing family members and others  
12 to pool resources in order to make professional management  
13 investment more efficient;
- 14       d. provide parents of persons with severe chronic disabilities  
15 peace of mind in knowing that a means exists to ensure that the  
16 interests of their children who have severe chronic disabilities are  
17 properly looked after and managed after the parents die or become  
18 incapacitated;
- 19       e. help make guardians available for persons with severe  
20 chronic disabilities who are **【incompetent】** incapacitated, when no  
21 other family member is available for this purpose;
- 22       f. encourage the availability of private resources to purchase for  
23 persons with severe chronic disabilities goods and services that are  
24 not available through any governmental or charitable program and  
25 to conserve these resources by limiting purchases to those which are  
26 not available from other sources;
- 27       g. encourage the inclusion, as beneficiaries of community  
28 trusts, of persons who lack resources and whose families are  
29 indigent, in a way that does not diminish the resources available to  
30 other beneficiaries whose families have contributed to the trust; and
- 31       h. remove the disincentives which discourage parents and  
32 others from setting aside funds for the future protection of persons  
33 with severe chronic disabilities by ensuring that the interests of  
34 beneficiaries in community trusts are not considered assets or  
35 income which would disqualify them from any governmental or  
36 charitable entitlement program with an economic means test.  
37 (cf: P.L.1993, c.224, s.1)
- 38
- 39       24. Section 4 of P.L.1985, c.424 (C.3B:11-22) is amended to  
40 read as follows:
- 41       4. As used in **【this act】** P.L.1985, c.424 (C.3B:11-19 et seq.):
- 42       a. "Beneficiary" means any person with a severe chronic  
43 disability who has qualified as a member of the community trust  
44 program and who has the right to receive those services and benefits  
45 of the community trust program as provided in **【this act】** P.L.1985,  
46 c.424.
- 47       b. "Board" means the board of trustees or the group of persons  
48 vested with the management of the business and affairs of a

1 corporation, formed for the purpose of managing a community trust,  
2 irrespective of the name by which the group is designated.

3 c. "Community trust" means a nonprofit organization which  
4 offers the following services:

5 (1) administration of special trust funds for persons with severe  
6 chronic disabilities;

7 (2) follow-along services;

8 (3) guardianship for persons with severe chronic disabilities  
9 who are **【incompetent】** incapacitated, when no other immediate  
10 family member or friend is available for this purpose; and

11 (4) advice and counsel to persons who have been appointed as  
12 individual guardians of the persons or estates of persons with severe  
13 chronic disabilities.

14 d. "Follow-along services" means those services offered by  
15 community trusts which are designed to insure that the needs of  
16 each beneficiary are being met for as long as may be required and  
17 may include periodic visits to the beneficiary and to the places  
18 where the beneficiary receives services, participation in the  
19 development of individualized plans being made by service  
20 providers for the beneficiary, and other similar services consistent  
21 with the purposes of **【this act】**P.L.1985, c.424.

22 e. "Severe chronic disability" means a physical or mental  
23 impairment which is expected to give rise to a long-term need for  
24 specialized health, social, and other services, and which makes the  
25 person with **【such a disability】** that impairment dependent upon  
26 others for assistance to secure these services.

27 f. "Trustee" means any member of the board of a corporation,  
28 formed for the purpose of managing a community trust, whether  
29 that member is designated as a trustee, director, manager, governor,  
30 or by any other title.

31 g. "Surplus trust funds" means funds accumulated in the trust  
32 from contributions made on behalf of an individual beneficiary,  
33 which, after the death of the beneficiary, are determined by the  
34 board to be in excess of the actual cost of providing services during  
35 the beneficiary's lifetime, including the beneficiary's share of  
36 administrative costs, and of any amounts provided to a  
37 remainderman.

38 (cf: P.L.1993, c.224, s.2)

39

40 25. N.J.S.3B:13-2 is amended to read as follows:

41 3B:13-2. As used in this chapter:

42 a. "Federal agency" means any bureau, office, board, or officer  
43 of the United States by whatever name known, now or hereafter  
44 charged by Congress:

45 (1) With payment of pensions, bounties, and allowances to  
46 veterans of the military service of the United States, their widows,  
47 widowers, children, mothers, and fathers**【,】**; or

1 (2) With the administration of the affairs of any of the aforesaid  
2 persons who may be minors or persons who are **mentally**  
3 **incompetent** incapacitated or **to manage** with the management of  
4 pensions, bounties, and allowances payable to them**;** .

5 b. "Military" has reference to the army, navy, marine, air, and  
6 coast guard services**;** .

7 c. "Estate" and "income" include only moneys received by the  
8 guardian from a Federal agency and earnings, interest, and profits  
9 derived therefrom**;** .

10 d. "Benefits" means moneys payable by the United States to the  
11 aforesaid persons or their guardians through a Federal agency**;** .

12 e. "Chief officer" means an officer of a Federal agency, charged  
13 by the laws of the United States with the particular duty in  
14 connection with which the term is used**;** .

15 f. "Ward" means a beneficiary of a Federal agency**;** .

16 g. "Guardian" means a person acting as fiduciary for a ward.  
17 (cf: P.L.1981, c.405, s.3B:13-2)

18

19 26. N.J.S.3B:13-6 is amended to read as follows:

20 3B:13-6. For the purpose of appointing a guardian pursuant to  
21 this chapter, the **mental incompetency** incapacity of a beneficiary  
22 of a Federal agency shall be determined by the Superior Court.  
23 (cf: P.L.1981, c.405, s.3B:13-6)

24

25 27. N.J.S.3B:13-7 is amended to read as follows:

26 3B:13-7. When, pursuant to any law of the United States or  
27 regulation of a Federal agency, the chief officer of the agency  
28 requires, prior to payment of benefits, that a guardian be appointed  
29 for a ward, the appointment for a person who is incapacitated shall  
30 be made in the Superior Court **in the case of a mental**  
31 **incompetent**, and **in** the appointment for a minor shall be made  
32 in the Superior Court or in the surrogate's court **or in the Superior**  
33 **Court in the case of a minor**.

34 (cf: P.L.1981, c.405, s.3B:13-7)

35

36 28. N.J.S.3B:13-8 is amended to read as follows:

37 N.J.S.3B:13-8. Except as provided in this section, no person  
38 shall accept appointment as guardian of a ward if **he be** acting as  
39 guardian for five wards.

40 In an action brought by an attorney of a Federal agency,  
41 establishing that a guardian is acting in a fiduciary capacity for  
42 more than five wards, the Superior Court shall require a final  
43 accounting forthwith from the guardian and shall discharge **him**  
44 the guardian.

45 The limitation of this section shall not apply where the guardian  
46 is a bank or trust company or a public guardian of **incompetent**



1 veterans who are incapacitated, and an individual may be guardian  
2 of more than five wards if they are all members of the same family.  
3 (cf: P.L.1981, c.405, s.3B:13-8)

4  
5 29. N.J.S.3B:13-18 is amended to read as follows:

6 3B:13-18. When **【an incompetent】** a ward for whom a guardian  
7 has been appointed is incapacitated and becomes entitled to  
8 personal property amounting to not more than \$10,000.00 from any  
9 source other than the United States Government, the court may  
10 authorize **【him】** the guardian to receive the personal property for  
11 conservation and administrative care. On payment of any money or  
12 delivery of property to the guardian, a release executed by **【him】**  
13 the guardian to the person or persons paying the money or  
14 delivering the property shall be valid and effective.  
15 (cf: P.L.1981, c.405, s.3B:13-18)

16  
17 30. N.J.S.3B:13-21 is amended to read as follows:

18 3B:13-21. There may be appointed in each county a person to be  
19 known as "public guardian of **【incompetent】** veterans who are  
20 incapacitated for the county of (naming county)", who shall be  
21 appointed by the Assignment Judge of the Superior Court in the  
22 county. **【He】** The person appointed shall hold office for the term of  
23 **【5】** five years from the date of **【his】** appointment and until **【his】** a  
24 successor is appointed and qualified.  
25 (cf: P.L.1981, c.405, s.3B:13-21)

26  
27 31. N.J.S.3B:13-22 is amended to read as follows:

28 3B:13-22. Before entering upon the duties of **【his】** office, a  
29 public guardian of **【incompetent】** veterans who are incapacitated  
30 shall execute a bond to the Superior Court in an amount and with  
31 sureties as shall be approved by the Superior Court, conditioned for  
32 the faithful discharge of all duties imposed by law upon **【him】** the  
33 person appointed public guardian.

34 The bond shall be renewed annually and shall, from time to time,  
35 be increased or reduced as the court may direct.

36 The expense of procuring the bond shall be paid by the county  
37 treasurer upon presentation of a proper voucher approved by the  
38 Assignment Judge of the Superior Court in the county.

39 (cf: P.L.1981, c.405, s.3B:13-22)

40  
41 32. N.J.S.3B:13-23 is amended to read as follows:

42 3B:13-23. A public guardian of **【incompetent】** veterans who are  
43 incapacitated shall receive an annual salary to be fixed by the  
44 Assignment Judge of the Superior Court of the county for which the  
45 guardian is appointed, with the approval of the board of freeholders  
46 or governing body of the county.

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19

1 The salary shall be paid by the county treasurer in semimonthly  
2 payments and shall be in lieu of all other charges, compensation,  
3 and commissions. A guardian shall not accept any other money  
4 whatsoever by way of fee, compensation, gratuity, or present for  
5 any **[of his]** services provided by the guardian.

6 (cf: P.L.1981, c.405, s.3B:13-23)

7

8 33. N.J.S.3B:13-24 is amended to read as follows:

9 3B:13-24. The public guardian of **[incompetent]** veterans who  
10 are incapacitated shall, in each county, assist, supervise, advise, and  
11 otherwise aid the duly appointed guardians of **[incompetent]** these  
12 veterans and give help as may be necessary in preparing and  
13 drawing papers and documents, and also help them to work in  
14 conjunction with the United States **[Veterans' Administration]**  
15 Department of Veterans Affairs, so that their wards may be fully  
16 protected.

17 (cf: P.L.1981, c.405, s.3B:13-24)

18

19 34. N.J.S.3B:13-25 is amended to read as follows:

20 3B:13-25. The public guardian of **[incompetent]** veterans who  
21 are incapacitated shall be subject to discharge or removal, by the  
22 court, on the grounds and in the manner in which other guardians of  
23 **[mental incompetents]** persons who are incapacitated are  
24 discharged or removed.

25 (cf: P.L.1981, c.405, s.3B:13-25)

26

27 35. N.J.S.3B:13-26 is amended to read as follows:

28 3B:13-26. Where an action is brought in the Superior Court for  
29 the appointment of a guardian for a person who, while in the  
30 military, naval, marine, air, or coast guard service of the United  
31 States, or after discharge therefrom, is **[or shall have been]**  
32 determined to be **[mentally incompetent]** incapacitated, whether or  
33 not **[he is or shall have been]** committed or confined to an  
34 institution for the care of persons who are [mentally incompetent  
35 persons] incapacitated, and the heirs of the person are unwilling,  
36 unable, or unqualified for the appointment, or **[in case it shall**  
37 **appear to the court that]** if the best interests of the person require it,  
38 the Superior Court may appoint the public guardian of the county in  
39 which the person resides as **[his]** guardian of the person.

40 (cf: P.L.1981, c.405, s.3B:13-26)

41

42 36. N.J.S.3B:13-27 is amended to read as follows:

43 3B:13-27. The public guardian of **[incompetent]** veterans who  
44 are incapacitated shall have, in respect of any veteran and the estate  
45 of any veteran for whom **[he has been]** the public guardian is  
46 appointed **[guardian]**, the same power and authority as any other

1 duly appointed guardian of a **【mental incompetent】** person who is  
2 incapacitated.

3 (cf: P.L.1981, c.405, s.3B:13-27)

4

5 37. N.J.S.3B:13-28 is amended to read as follows:

6 3B:13-28. The public guardian shall settle **【his】** accounts in  
7 each estate in which **【he has been】** the guardian is appointed  
8 **【guardian】** at the times and in the same manner as other guardians  
9 of **【mental incompetents】** persons who are incapacitated.

10 (cf: P.L.1981, c.405, s.3B:13-28)

11

12 38. N.J.S.3B:13-29 is amended to read as follows:

13 3B:13-29. Upon the termination of a guardianship, by death of  
14 **【his】** the ward or otherwise, the public guardian shall settle **【his】**  
15 the account **【as guardian】** in the same manner as other guardians of  
16 **【mental incompetents】** persons who are incapacitated.

17 (cf: P.L.1981, c.405, s.3B:13-29)

18

19 39. N.J.S.3B:13-31 is amended to read as follows:

20 3B:13-31. The public guardian of **【incompetent】** veterans who  
21 are incapacitated may, when authorized by the Superior Court,  
22 employ counsel to represent **【him】** the public guardian.

23 The compensation of counsel shall be fixed by the court and paid  
24 from moneys in the guardian's **【hands】** control belonging to the  
25 estate involved in litigation.

26 (cf: P.L.1981, c.405, s.3B:13-31)

27

28 40. N.J.S.3B:13A-1 is amended to read as follows:

29 3B:13A-1. As used in this chapter:

30 a. "Conservatee" means a person who has not been **【judicially**  
31 **declared incompetent】** adjudicated incapacitated but who by reason  
32 of advanced age, illness, or physical infirmity, is unable to care for  
33 or manage **【his】** property or has become unable to provide **【for**  
34 **himself】** self-support or support for others **【dependent】** who  
35 depend upon **【him for】** that support【;】.

36 b. "Conservator" means a person appointed by the court to  
37 manage the estate of a conservatee.

38 (cf: P.L.1983, c.192, s.3B:13A-1)

39

40 41. N.J.S.3B:13A-16 is amended to read as follows:

41 3B:13A-16. The appointment of a conservator shall not:

42 a. Be evidence of the **【competency】** capacity or **【incompetency】**  
43 incapacity of a conservatee; or

44 b. Transfer title of the conservatee's real and personal property  
45 to the conservator; or

1 c. Deprive or modify any civil right of the conservatee,  
2 including but not limited to civil service status and appointment or  
3 rights relating to the granting, forfeiture, or denial of a license,  
4 permit, privilege, or benefit pursuant to any law.

5 (cf: P.L.1983, c.192, s.3B:13A-16)

6  
7 42. N.J.S.3B:13A-34 is amended to read as follows:

8 3B:13A-34. A conservatorship shall terminate upon the death of  
9 the conservatee or upon **【his having been adjudicated】** adjudication  
10 of the conservatee to be **【incompetent】** incapacitated as provided by  
11 law, but the termination shall not affect the conservator's liability  
12 for prior acts nor **【his】** obligation to account funds and property of  
13 the conservatee.

14 (cf: P.L.1983, c.192, s.3B:13A-34)

15  
16 43. N.J.S.3B:13A-36 is amended to read as follows:

17 3B:13A-36. A conservator shall be compensated for **【his】**  
18 services in the same manner as a guardian for a minor or **【mental**  
19 **incompetent】** for a person who is incapacitated.

20 (cf: P.L.1983, c.192, s.3B:13A-36)

21  
22 44. N.J.S.3B:14-21 is amended to read as follows:

23 3B:14-21. The court may remove a fiduciary from office when  
24 the fiduciary:

25 a. After due notice of an order or judgment of the court so  
26 directing, **【he】** neglects or refuses, within the time fixed by the  
27 court, to file an inventory, render an account, or give security or  
28 additional security;

29 b. After due notice of any other order or judgment of the court  
30 made under its proper authority, **【he】** neglects or refuses to perform  
31 or obey the order or judgment within the time fixed by the court;

32 **【or】**

33 c. **【He has embezzled, wasted or misapplied】** Embezzles,  
34 wastes, or misapplies any part of the estate **【committed to his**  
35 **custody】** for which the fiduciary is responsible, or **【has abused】**  
36 abuses the trust and confidence reposed in **【him】** the fiduciary;

37 **【or】**

38 d. **【He has removed from the state or does not reside therein】**  
39 No longer resides nor has an office in the State and neglects or  
40 refuses to proceed with the administration of the estate and perform  
41 the duties **【and trust devolving upon him】** required; 【or】

42 e. **【He is of unsound mind or mentally】** Is incapacitated for the  
43 transaction of business; or

44 f. **【One of two or more fiduciaries has neglected or refused】**  
45 Neglects or refuses, as one of two or more fiduciaries, to perform  
46 **【his】** the required duties or to join with the other fiduciary or

1 fiduciaries in the administration of the estate **【committed to their**  
2 **care】** for which they are responsible whereby the proper  
3 administration and settlement of the estate is or may be hindered or  
4 prevented.

5 (cf: P.L.1981, c.405, s.3B:14-21)

6

7 45. N.J.S.3B:14-23 is amended to read as follows:

8 3B:14-23. Powers. In the absence of contrary or limiting  
9 provisions in the judgment or order appointing a fiduciary, in the  
10 will, deed, or other instrument or in a subsequent court judgment or  
11 order, every fiduciary shall, in the exercise of good faith and  
12 reasonable discretion, have the power:

13 a. To accept additions to any estate or trust from sources other  
14 than the estate of the decedent, the minor, **【mental incompetent】** the  
15 person who is incapacitated, or the settlor of a trust;

16 b. To acquire the remaining undivided interest in an estate or  
17 trust asset in which the fiduciary, in **【his】** a fiduciary capacity,  
18 holds an undivided interest;

19 c. To invest and reinvest assets of the estate or trust under the  
20 provisions of the will, deed, or other instrument or as otherwise  
21 provided by law and to exchange assets for investments and other  
22 property upon terms as may seem advisable to the fiduciary;

23 d. To effect and keep in force fire, rent, title, liability, casualty,  
24 or other insurance to protect the property of the estate or trust and to  
25 protect the fiduciary;

26 e. With respect to any property or any interest therein owned by  
27 an estate or trust, including any real property belonging to the  
28 fiduciary's decedent at death, except where the property or any  
29 interest therein is specifically disposed of:

30 (1) To take possession of and manage the property and to collect  
31 the rents therefrom, and pay taxes, mortgage interest, and other  
32 charges against the property;

33 (2) To sell the property at public or private sale, and on terms as  
34 in the opinion of the fiduciary shall be most advantageous to those  
35 interested therein;

36 (3) With respect to fiduciaries other than a trustee, to lease the  
37 property for a term not exceeding three years, and in the case of a  
38 trustee to lease the property for a term not exceeding 10 years, even  
39 though the term extends beyond the duration of the trust, and in  
40 either case including the right to explore for and remove mineral or  
41 other natural resources, and in connection with mineral leases to  
42 enter into pooling and unitization agreements;

43 (4) To mortgage the property;

44 (5) To grant easements to adjoining owners and utilities;

45 (6) A fiduciary acting under a will may exercise any of the  
46 powers granted by this subsection e. notwithstanding the effects  
47 upon the will of the birth of a child after its execution;

- 1 f. To make repairs to the property of the estate or trust for the  
2 purpose of preserving the property or rendering it rentable or  
3 saleable;
- 4 g. To grant options for the sale of any property of the estate or  
5 trust for a period not exceeding six months;
- 6 h. With respect to any mortgage held by the estate or trust to  
7 continue it upon and after maturity, with or without renewal or  
8 extension, upon terms as may seem advisable to the fiduciary and to  
9 foreclose, as an incident to collection of any bond or note, any  
10 mortgage and purchase the mortgaged property or acquire the  
11 property by deed from the mortgagor in lieu of foreclosure;
- 12 i. In the case of the survivor or survivors of two or more  
13 fiduciaries to administer the estate or trust without the appointment  
14 of a successor to the fiduciary or fiduciaries who have ceased to act  
15 and to exercise or perform all of the powers given unless contrary to  
16 the express provision of the will, deed, or other instrument;
- 17 j. As a new, alternate, successor, substitute, or additional  
18 fiduciary or fiduciaries, to have or succeed to all of the powers,  
19 duties, and discretion of the original fiduciary or fiduciaries, with  
20 respect to the estate or trust, as were given to the original fiduciary  
21 or fiduciaries named in or appointed by a will, deed, or other  
22 instrument, unless the exercise of the powers, duties, or discretion  
23 of the original fiduciary or fiduciaries is expressly prohibited by the  
24 will, deed, or other instrument to any successor or substitute  
25 fiduciary or fiduciaries;
- 26 k. Where there are three or more fiduciaries qualified to act, to  
27 take any action with respect to the estate or trust which a majority  
28 of the fiduciaries shall determine; a fiduciary who fails to act  
29 through absence or disability, or a dissenting fiduciary who joins in  
30 carrying out the decision of a majority of the fiduciaries if **his** the  
31 dissent is expressed promptly in writing to **his** the cofiduciaries,  
32 shall not be liable for the consequences of any majority decision,  
33 provided that liability for failure to join in administering the trust or  
34 to prevent a breach of trust may not thus be avoided;
- 35 l. To employ and compensate attorneys for services rendered to  
36 the estate or trust or to a fiduciary in the performance of **his** the  
37 fiduciary's duties;
- 38 m. To compromise, contest, or otherwise settle any claim in  
39 favor of the estate, trust, or fiduciary or in favor of third persons  
40 and against the estate, trust, or fiduciary, including transfer  
41 inheritance, estate, income, and other taxes;
- 42 n. To vote in person or by proxy, discretionary or otherwise,  
43 shares of stock or other securities held by the estate or trust;
- 44 o. To pay calls, assessments, and any other sums chargeable or  
45 accruing against or on account of shares of stock, bonds,  
46 debentures, or other corporate securities in the **hands** control of a  
47 fiduciary, whenever the payments may be legally enforceable  
48 against the fiduciary or any property of the estate or trust or the

1 fiduciary deems payment expedient and for the best interests of the  
2 estate or trust;

3 p. To sell or exercise stock subscription or conversion rights,  
4 participate in foreclosures, reorganizations, consolidations, mergers,  
5 or liquidations, and to consent to corporate sales or leases and  
6 encumbrances, and, in the exercise of those powers, the fiduciary is  
7 authorized to deposit stocks, bonds, or other securities with any  
8 custodian, agent, protective or other similar committee, or trustee  
9 under a voting trust agreement, under terms and conditions  
10 respecting the deposit thereof as the fiduciary may approve;

11 q. To execute and deliver agreements, assignments, bills of sale,  
12 contracts, deeds, notes, receipts, and any other instrument necessary  
13 or appropriate for the administration of the estate or trust;

14 r. In the case of a trustee:

15 (1) To hold two or more trusts or parts of trusts created by the  
16 same instrument, as an undivided whole, without separation as  
17 between the trusts or parts of the trusts, provided that separate trusts  
18 or parts of trusts shall have undivided interests and provided further  
19 that no holding shall defer the vesting of any estate in possession or  
20 otherwise;

21 (2) To divide a trust, before or after its initial funding, into two  
22 or more separate trusts, provided that such division will not  
23 materially impair the accomplishment of the trust purposes or the  
24 interests of any beneficiary. Distributions provided for by the  
25 governing instrument may be made from one or more of the  
26 separate trusts;

27 s. To distribute in kind any property of the estate or trust as  
28 provided in article 1 of chapter 23 of this **【title】 Title**;

29 t. To join with the surviving spouse, partner in a civil union, or  
30 domestic partner, the executor of **【his or her】 the decedent's** will,  
31 or the administrator of **【his or her】 the decedent's** estate in the  
32 execution and filing of a joint income tax return for any period prior  
33 to the death of a decedent for which **【he has not filed a】 no** return  
34 or **【a】** gift tax return on gifts made by the decedent's surviving  
35 spouse, partner in a civil union, or domestic partner was filed, and  
36 to consent to treat the gifts as being made one-half by the decedent,  
37 for any period prior to a decedent's death, and to pay taxes thereon  
38 as are chargeable to the decedent;

39 u. To acquire or dispose of an asset, including real or personal  
40 property in this State or another state, for cash or on credit, at  
41 public or private sale, and to manage, develop, improve, exchange,  
42 partition, change the character of, or abandon an estate asset;

43 v. To continue any business constituting the whole or any part of  
44 the estate for so long a period of time as the fiduciary may deem  
45 advisable and advantageous for the estate and persons interested  
46 therein;

1 w. In the case of a qualified bank as defined in section 1 of  
2 P.L.1948, c.67 (C.17:9A-1), and an out-of-State bank as defined in  
3 section 1 of P.L.1948, c.67 (C.17:9A-1), which has established a  
4 trust office in this State to purchase, sell, and maintain for any  
5 fiduciary account, securities issued by an investment company  
6 which is operated and maintained in accordance with the  
7 "Investment Company Act of 1940," 15 U.S.C.s.80a-1 et seq., and  
8 for which the qualified bank or out-of-State bank is providing  
9 services as an investment advisor, investment manager, custodian,  
10 or otherwise, including those for which it receives compensation, if:

11 (1) The investment is otherwise in accordance with applicable  
12 fiduciary standards; and

13 (2) The investment is authorized by the agreement or instrument  
14 creating the fiduciary account that gives the qualified bank or out-  
15 of-State bank investment authority, or by court order; or

16 (3) The qualified bank or out-of-State bank provides written  
17 notice not less than annually by prospectus, account statement, or  
18 otherwise, disclosing to any current income beneficiaries of the  
19 trust the services provided by the qualified bank or its affiliate or  
20 out-of-State bank to the investment company, and the rate, formula,  
21 or other method by which compensation paid to the qualified bank  
22 or its affiliate or out-of-State bank is determined and the qualified  
23 bank or out-of-State bank does not receive a written objection from  
24 any current income beneficiary within 30 days after receipt of this  
25 notice. If a written objection is received from any current income  
26 beneficiary pursuant to this paragraph (3), no such investment of  
27 the trust assets of that fiduciary account shall be made or  
28 maintained.

29 Such investment shall not be deemed self-dealing or a fiduciary  
30 conflict; nor shall the fact that other beneficiaries of fiduciary  
31 accounts of the qualified bank or out-of-State bank have similar  
32 investments be deemed to be an improper commingling of assets by  
33 the qualified bank or out-of-State bank.

34 For purposes of this subsection, "fiduciary account" shall include  
35 a trust, estate, agency, or other account in which funds, property, or  
36 both, are held by a qualified bank pursuant to section 28 of  
37 P.L.1948, c.67 (C.17:9A-28), or an account for which a qualified  
38 bank or out-of-State bank acts as investment advisor or manager or  
39 an account held by an out-of-State bank as defined in section 1 of  
40 P.L.1948, c. 67 (C.17:9A-1);

41 x. To employ and compensate accountants from the fiduciary  
42 fund for services rendered to the estate or trust or to a fiduciary in  
43 the performance of the fiduciary's duties, including the duty of a  
44 corporate or other fiduciary with respect to the preparation of  
45 accountings, without reduction in commissions due to the fiduciary,  
46 so long as such accountings are not the usual, customary, or routine  
47 services provided by the fiduciary in light of the nature and skill of  
48 the fiduciary. In evaluating the actions of the fiduciary under this



1 subsection, the court shall consider the size and complexity of the  
2 fiduciary fund, the length of time for which the accounting is  
3 rendered, and the increased risk and responsibilities imposed on  
4 fiduciaries as a result of revisions to laws affecting fiduciaries  
5 including, but not limited to, the "Uniform Principal and Income  
6 Act of 2001," P.L.2001, c.212 (C.3B:19B-1 et seq.) and the  
7 "Prudent Investor Act," P.L.1997, c.26 (C.3B:20-11.1 et seq.)  
8 provided that such revisions of the laws affecting fiduciaries were  
9 enacted after the fiduciary responsibilities under the corresponding  
10 will, deed, or other instrument, or court judgment or order, were  
11 imposed on, and assumed by, the fiduciary. For purposes of this  
12 subsection, "Accountant" means a person who is registered as a  
13 certified public accountant pursuant to the provisions of the  
14 "Accountancy Act of 1997," P.L.1997, c.259 (C.45:2B-42 et seq.),  
15 or an accounting firm which is organized for the practice of public  
16 accounting pursuant to the provisions of the "Accountancy Act of  
17 1997," P.L.1997, c.259 (C.45:2B-42 et seq.) and "The Professional  
18 Service Corporation Act," P.L.1969, c.232 (C.14A:17-1 et seq.);  
19 and

20 y. The powers set forth in this section are in addition to any  
21 other powers granted by law, and by a will, deed, or other  
22 instrument.

23 (cf: P.L.2003, c.33, s.1)

24

25 46. N.J.S.3B:15-1 is amended to read as follows:

26 3B:15-1. The court or surrogate appointing a fiduciary in any of  
27 the instances enumerated below shall secure faithful performance of  
28 the duties of **【his】** the office by requiring the fiduciary thereby  
29 authorized to act to furnish bond to the Superior Court in a sum and  
30 with proper conditions and sureties, having due regard to the value  
31 of the estate **【in his charge】** and the extent of **【his】** the fiduciary's  
32 authority, as the court shall approve:

33 a. When an appointment is made upon failure of the will, or  
34 other instrument creating or continuing a fiduciary relationship, to  
35 name a fiduciary;

36 b. When a person is appointed in the place of the person named  
37 as fiduciary in the will, or other instrument creating or continuing  
38 the fiduciary relationship;

39 c. When the office to which the person is appointed is any form  
40 of administration, except: (1) administration ad litem which may be  
41 granted with or without bond; or (2) administration granted to a  
42 surviving spouse where the decedent's entire estate is payable to the  
43 surviving spouse;

44 d. When the office to which the person is appointed is any form  
45 of guardianship of a minor or a person who is incapacitated  
46 **【person】**, except as otherwise provided in N.J.S.3B:12-16 or  
47 N.J.S.3B:12-33 with respect to a guardian appointed by will;

- 1 e. When letters are granted to a nonresident executor, except in  
2 cases where the will provides that no security shall be required of  
3 the person named as executor therein;
- 4 f. When an additional or substituted fiduciary is appointed;
- 5 g. When an appointment is made under chapter 26 of this title,  
6 of a fiduciary for the estate or property, or any part thereof, of an  
7 absentee;
- 8 h. When a fiduciary moves from the State, in which case the  
9 court may require **【him】** the fiduciary to give such security as **【it**  
10 may determine】 the court determines; or
- 11 i. (1) When an appointment is made, regardless of any direction  
12 in a last will and testament relieving a personal representative,  
13 testamentary guardian, or testamentary trustee or their successors  
14 from giving bond, that person shall, before receiving letters or  
15 exercising any authority or control over the property, provide bond  
16 to secure performance of **【his】** the person's duties with respect to  
17 property to which a **【developmentally disabled】** person with a  
18 developmental disability as defined in section 3 of P.L.1985, c.145  
19 (C.30:6D-25) is, or shall be entitled, if:
- 20 (a) the testator has identified that a devisee or beneficiary of  
21 property of the decedent's estate is **【such】** a **【developmentally**  
22 **disabled】** person with a developmental disability; or
- 23 (b) the person seeking appointment has actual knowledge that a  
24 devisee or beneficiary of property of the decedent's estate is **【such】**  
25 a **【developmentally disabled】** person with a developmental  
26 disability.
- 27 (2) No bond shall be required pursuant to paragraph (1) of this  
28 subsection if:
- 29 (a) the court has appointed another person as guardian of the  
30 person or guardian of the estate for the **【developmentally disabled】**  
31 person with a developmental disability;
- 32 (b) the person seeking the appointment is a family member  
33 within the third degree of consanguinity of the **【developmentally**  
34 **disabled】** person with a developmental disability; or
- 35 (c) the total value of the real and personal assets of the estate or  
36 trust does not exceed \$25,000.
- 37 (3) A personal representative, testamentary guardian, or  
38 testamentary trustee who is required to provide bond pursuant to  
39 paragraph (1) of this subsection shall file with the Superior Court an  
40 initial inventory and a final accounting of the estate in **【his】** that  
41 person's charge containing a true account of all assets of the estate.  
42 **【Such】** That person shall file an interim accounting every five  
43 years, or a lesser period of time if so ordered by the Superior Court,  
44 in the case of an extended estate or trust administration.
- 45 (4) A personal representative, testamentary guardian, or  
46 testamentary trustee who is required to provide bond pursuant to  
47 paragraph (1) of this subsection may make application to the court

1 to waive the bond or reduce the amount of bond for good cause  
2 shown, including the need to preserve assets of the estate.

3 This subsection shall not apply to qualified financial institutions  
4 pursuant to section 30 of P.L.1948, c.67 (C.17:9A-30) or to non-  
5 profit community trusts organized pursuant to P.L.1985, c.424  
6 (C.3B:11-19 et seq.).

7 Nothing contained in this section shall be construed to require a  
8 bond in any case where it is specifically provided by law that a  
9 bond need not be required.

10 (cf: P.L.2010, c.34, s.3)

11

12 47. N.J.S.3B:15-7 is amended to read as follows:

13 3B:15-7. The bond required of a guardian of a minor or **mental**  
14 **incompetent** a person who is incapacitated shall be conditioned  
15 substantially as follows:

16 a. To **well and truly** administer the ward's estate to the best of  
17 the guardian's ability, and to take proper care of the ward if the  
18 guardian is the guardian of the ward's person;

19 b. To make a just and true account of **his** the administration of  
20 the guardianship, and, if required by the court, to settle **his** the  
21 accounts therein within the time so required.

22 (cf: P.L.1981, c.405, s.3B:15-7)

23

24 48. Section 1 of P.L.1987, c.28 (C.3B:15-17.1) is amended to  
25 read as follows:

26 1. Where the estate of a minor consists of the proceeds of a  
27 judgment recovered in favor of the minor in any court of this State  
28 and the funds recovered are placed under the control of the county  
29 surrogate, the funds shall be paid over to the person when the  
30 person reaches the age of 18 years, unless the court finds the person  
31 **incompetent** to be incapacitated.

32 (cf: P.L.1987, c.28, s.1)

33

34 49. N.J.S.3B:16-8 is amended to read as follows:

35 3B:16-8. Every guardian of the estate of a minor or **mental**  
36 **incompetent** a person who is incapacitated may, and if required by  
37 the court shall, file with the surrogate of the proper county or the  
38 clerk of the Superior Court**,** as the case may be,**]** an inventory,  
39 under oath, of all the real and personal property which **has come to**  
40 **his hands** is in the control, possession, or knowledge of the  
41 guardian or **into the hands of** any other person **for him** on the  
42 guardian's behalf. The court shall not require an inventory and  
43 appraisal to be filed until **3** three months have elapsed after the  
44 grant of letters.

45 (cf: P.L.1981, c.405, s.3B:16-8)

46

47 50. N.J.S.3B:17-1 is amended to read as follows:

1 3B:17-1. A fiduciary need not render or settle **his** an account  
2 if **he** the fiduciary files with the court a release or discharge from  
3 the beneficiary, ward, or cestui que trust who **is of full age** has  
4 reached majority and is not **mentally competent** incapacitated.

5 The release or discharge shall be executed and acknowledged as  
6 provided for deeds of real estate to be recorded.

7 (cf: P.L.1981, c.405, s.3B:17-1)

8

9 51. N.J.S.3B:23-21 is amended to read as follows:

10 3B:23-21. Unclaimed estate assets. When a fiduciary states  
11 **his** a final account and there remains in **his hands** the  
12 fiduciary's control a balance, devise, distributive share, dividend, or  
13 sum of money to be paid to a person and the person, or **his** that  
14 person's guardian, if **he be an infant** a minor or **mental**  
15 **incompetent** a person who is incapacitated, fails to claim the  
16 balance, devise, distributive share, dividend, or sum of money  
17 within the period of time set forth in R.S.46:30B-37.1, then the  
18 property shall be disposed of as provided in N.J.S.3B:23-19 if it is  
19 part of an intestate estate or otherwise presumed abandoned and  
20 handled in accordance with the "Uniform Unclaimed Property Act  
21 (1981)," R.S.46:30B-1 et seq.

22 (cf: P.L.2001, c.109, s.3)

23

24 52. N.J.S.3B:23-34 is amended to read as follows:

25 3B:23-34. An action to recover a devise may not be maintained  
26 until:

27 a. The devise becomes due and payable;

28 b. Reasonable demand for payment is made upon the personal  
29 representative; and

30 c. A refunding bond in substantially the form prescribed in  
31 N.J.S.3B:23-26 is tendered to the personal representative by the  
32 devisee, or, if the devisee is a minor or a person who is  
33 incapacitated, by the guardian of **his** the devisee's estate **if the**  
34 **devisee is an infant or a mental incompetent**, and, if **he refuses to**  
35 **accept** not accepted by the personal representative, the refunding  
36 bond~~[,]~~ is filed with the clerk of the court, prior to the  
37 commencement of the action.

38 (cf: P.L.1981, c.405, s.3B:23-34)

39

40 53. N.J.S.3B:23-39 is amended to read as follows:

41 3B:23-39. When a devise charged by will upon real estate is  
42 wholly or in part limited over:

43 a. To **infants, mental incompetents** minors, persons who are  
44 incapacitated, or persons not in esse; or

45 b. To persons who cannot be ascertained until the happening of  
46 an event named in the will; or

47 c. In a manner that the vesting of the devise may be contingent--

1 The Superior Court may, in a summary or other action by the  
2 executor, or a person interested in the real estate, direct the devise  
3 paid into court together with any additional sums as the court may  
4 deem reasonable to cover the expense of investing and taking  
5 charge of the devise. Upon payment into court, the real estate shall  
6 be wholly clear and discharged from the lien created by the will.  
7 (cf: P.L.1981, c.405, s.3B:23-39)

8  
9 54. Section 1 of P.L.1955, c.232 (C.9:2-13) is amended to read  
10 as follows:

11 1. For the purposes of **[this act]** P.L.1955, c.232 (C.9:2-13 et  
12 seq.), the following words and phrases, unless otherwise indicated,  
13 shall be deemed to have the following meanings:

14 (a) The phrase "approved agency" means a legally constituted  
15 agency having its principal office within or without this State,  
16 which has been approved, pursuant to law, to place children in New  
17 Jersey for purposes of adoption.

18 (b) The word "child" means any person under 18 years of age.

19 (c) The word "custody" means continuing control and authority  
20 over the person of a child, established by natural parenthood, by  
21 order or judgment of a court of competent jurisdiction, or by written  
22 surrender to and approved agency pursuant to law.

23 (d) The phrase "forsaken parental obligations" means willful and  
24 continuous neglect or failure to perform the natural and regular  
25 obligations of care and support of a child.

26 (e) The phrase "mentally **[incompetent]** incapacitated" means  
27 inability to understand and discharge the natural and regular  
28 obligations of care and support of a child by reason of mental  
29 disease, **[feebleness of mind, or habitual intemperance]** intellectual  
30 disability, or the effects of drug, alcohol, or substance abuse.

31 (f) The word "parent," when not otherwise described by the  
32 context, means a natural parent or parent by previous adoption.

33 (g) The word "may" shall be construed to be permissive and the  
34 word "shall" shall be construed to be mandatory.

35 (cf: P.L.1990, c.26, s.3)

36  
37 55. Section 7 of P.L.1955, c.232 (C.9:2-19) is amended to read  
38 as follows:

39 7. If the court shall determine that custody of the child has been  
40 surrendered as provided in Article II of **[this act]** P.L.1955, c.232  
41 (C.9:2-13 et seq.), the court may declare that the person making  
42 such surrender shall have no further right to custody of the child. If  
43 the court shall determine that a parent of the child is dead, or  
44 mentally **[incompetent]** incapacitated as defined in section 1 of  
45 P.L.1955, c.232 C.9:2-13), or has forsaken parental obligation, the  
46 court may declare that such parent shall have no further right to  
47 custody of the child. If the court shall determine that a custodian or

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1 guardian has been appointed for the child, but that such custodian or  
2 guardian has willfully and continuously neglected or failed to  
3 discharge the responsibilities of such appointment, the court may  
4 declare that such custodian or guardian shall have no further control  
5 and authority over the person of the child.

6 (cf: P.L.1990, c.26, s.4)

7

8 56. Section 3 of P.L.1972, c.81 (C.9:17B-3) is amended to read  
9 as follows:

10 3. Except **【with respect to the provisions of N.J.S. 2A:14-21,】**  
11 with respect to the provision of services pursuant to the laws  
12 relating to dependent and neglected children, allocated to chapter  
13 4C of Title 30 of the Revised Statutes (C.30:4C-1 to 30:4C-44), to  
14 persons between 18 and 21 years of age who seek to avail  
15 themselves of such services and who are enrolled in a school or  
16 training program below college level or who require a course of  
17 treatment for emotionally, cognitively, or physically disabled  
18 persons, with respect to the right of a court to take any action it  
19 deems appropriate and in the interest of a person under 21 years of  
20 age, or to require a change in action heretofore taken by a court  
21 with respect to a person under 21 years of age, or with respect to the  
22 provisions of the "New Jersey Uniform Gifts to Minors Act"  
23 (P.L.1963, c.177, C.46:38-13 et seq.), or the "New Jersey Uniform  
24 Transfers to Minors Act," R.S. 46:38A-1 et seq., every person 18 or  
25 more years of age shall in all other matters and for all other  
26 purposes be deemed to be an adult and, notwithstanding any other  
27 provision of law to the contrary, shall have the same legal capacity  
28 to act and the same powers and obligations as a person 21 or more  
29 years of age. Except as herein otherwise provided, every act or  
30 action of any such person shall be as valid, binding, and enforceable  
31 by or against such person as if, at the time such act or action was  
32 performed or undertaken, such person was 21 or more years of age  
33 and no act or action by any such person performed or undertaken on  
34 or after the effective date of this act shall be subject to  
35 disaffirmance because of minority.

36 (cf: P.L.1987, c.18, s.3)

37

38 57. Section 7 of P.L.1975, c.231 (C.10:4-12) is amended to read  
39 as follows:

40 7. a. Except as provided by subsection b. of this section all  
41 meetings of public bodies shall be open to the public at all times.  
42 Nothing in this act shall be construed to limit the discretion of a  
43 public body to permit, prohibit, or regulate the active participation  
44 of the public at any meeting, except that a municipal governing  
45 body and a board of education shall be required to set aside a  
46 portion of every meeting of the municipal governing body or board  
47 of education, the length of the portion to be determined by the  
48 municipal governing body or board of education, for public

1 comment on any governmental or school district issue that a  
2 member of the public feels may be of concern to the residents of the  
3 municipality or school district.

4 b. A public body may exclude the public only from that portion  
5 of a meeting at which the public body discusses any:

6 (1) **【Any】** matter which, by express provision of federal law  
7 **【or】**, State statute, or rule of court shall be rendered confidential or  
8 excluded from the provisions of subsection a. of this section**【.】** ;

9 (2) **【Any】** matter in which the release of information would  
10 impair a right to receive funds from the Government of the United  
11 States**【.】** ;

12 (3) **【Any】** material the disclosure of which constitutes an  
13 unwarranted invasion of individual privacy such as any records,  
14 data, reports, recommendations, or other personal material of any  
15 educational, training, social service, medical, health, custodial,  
16 child protection, rehabilitation, legal defense, welfare, housing,  
17 relocation, insurance, and similar program or institution operated by  
18 a public body pertaining to any specific individual admitted to or  
19 served by **【such】** an institution or program, including but not  
20 limited to, information relative to the individual's personal and  
21 family circumstances, and any material pertaining to admission,  
22 discharge, treatment, progress, or condition of any individual,  
23 unless the individual concerned (or, in the case of a minor or  
24 **【incompetent】** an incapacitated individual, **【his】** the individual's  
25 guardian) shall request in writing that the **【same】** material be  
26 disclosed publicly**【.】** ;

27 (4) **【Any】** collective bargaining agreement, or the terms and  
28 conditions which are proposed for inclusion in any collective  
29 bargaining agreement, including the negotiation of the terms and  
30 conditions thereof with employees or representatives of employees  
31 of the public body**【.】** ;

32 (5) **【Any】** matter involving the purchase, lease, or acquisition of  
33 real property with public funds, the setting of banking rates, or  
34 investment of public funds, **【where】** if it could adversely affect the  
35 public interest if discussion of **【such】** the matters were disclosed**【.】**  
36 ;

37 (6) **【Any】** tactics and techniques utilized in protecting the safety  
38 and property of the public, provided that their disclosure could  
39 impair **【such】** that protection **【. Any】** , or investigations of  
40 violations or possible violations of the law**【.】** ;

41 (7) **【Any】** pending or anticipated litigation or contract  
42 negotiation other than in subsection b. (4) herein in which the  
43 public body is, or may become, a party**【.】**

44 **Any】** , or matters falling within the attorney-client privilege, to  
45 the extent that confidentiality is required in order for the attorney to  
46 exercise his ethical duties as a lawyer**【.】** ;

1 (8) **【Any】** matter involving the employment, appointment,  
2 termination of employment, terms and conditions of employment,  
3 evaluation of the performance of, promotion, or disciplining of any  
4 specific prospective public officer or employee or current public  
5 officer or employee employed or appointed by the public body,  
6 unless all the individual employees or appointees whose rights  
7 could be adversely affected request in writing that **【such】** the  
8 matter or matters be discussed at a public meeting**【.】** ; or

9 (9) **【Any】** deliberations of a public body occurring after a public  
10 hearing that may result in the imposition of a specific civil penalty  
11 upon the responding party or the suspension or loss of a license or  
12 permit belonging to the responding party as a result of an act or  
13 omission for which the responding party bears responsibility.  
14 (cf: P.L.2008, c.14, s.1)

15

16 58. N.J.S.12A:3-308 is amended to read as follows:

17 12A:3-308. a. In an action with respect to an instrument, the  
18 authenticity of, and authority to make, each signature on the  
19 instrument is admitted unless specifically denied in the pleadings.  
20 If the validity of a signature is denied in the pleadings, the burden  
21 of establishing validity is on the person claiming validity, but the  
22 signature is presumed to be authentic and authorized unless the  
23 action is to enforce the liability of the purported signer and the  
24 signer is **【dead】** deceased or **【incompetent】** incapacitated at the  
25 time of trial of the issue of validity of the signature. If an action to  
26 enforce the instrument is brought against a person as the  
27 undisclosed principal of a person who signed the instrument as a  
28 party to the instrument, the plaintiff has the burden of establishing  
29 that the defendant is liable on the instrument as a represented  
30 person under subsection a. of **【12A:3-402】** N.J.S.12A:3-402.

31 b. If the validity of signatures is admitted or proved and there  
32 is compliance with subsection a. of this section, a plaintiff  
33 producing the instrument is entitled to payment if the plaintiff  
34 proves entitlement to enforce the instrument under **【12A:3-301】**  
35 N.J.S.12A:3-301, unless the defendant proves a defense or claim in  
36 recoupment. If a defense or claim in recoupment is proved, the  
37 right to payment of the plaintiff is subject to the defense or claim,  
38 except to the extent the plaintiff proves that the plaintiff has rights  
39 of a holder in due course which are not subject to the defense or  
40 claim.

41 (cf: N.J.S.12A:3-308)

42

43 59. Section 16 of P.L.1966, c.291 (C.13:1C-16) is amended to  
44 read as follows:

45 16. The board may refuse the application of any applicant for an  
46 examination or, after due notice and public hearing, refuse to issue



1 a certificate, or revoke any certificate issued by it, if the applicant  
2 for, or holder of, such a certificate~~[-]~~ :

3 (a) has been convicted of an offense involving moral turpitude,  
4 is a drug addict or alcoholic, or is ~~mentally incompetent,~~  
5 incapacitated; or

6 (b) advocates the overthrow of the Government of the United  
7 States by force and violence or other unlawful means~~[,]~~ ; or

8 (c) has made any willful statement or impersonated any other  
9 person or permitted or aided any other person to impersonate ~~him~~  
10 the applicant or certificate holder in connection with any  
11 application or examination for certification and registration~~[,]~~ ; or

12 (d) has been found to be inefficient in performing the duties of  
13 any position held by ~~him~~ the person, on the basis of the holding  
14 of which experience qualifications are offered on ~~his~~ that  
15 person's behalf.

16 (cf: P.L.1966, c.291, s.16)

17

18 60. Section 1 of P.L.1942, c.230 (C.17:4-9.1) is amended to read  
19 as follows:

20 1. ~~Whenever a "successor company" has been or may~~  
21 ~~hereafter be~~ For purposes of this section, the term "successor  
22 company" includes "successor bank" or "successor savings bank";  
23 and the term "predecessor company" includes "liquidating  
24 company" or "predecessor savings bank."

25 A successor company formed under ~~and by virtue of the~~  
26 ~~provisions of section 17:4-9~~ R.S.17:4-9, repealed and replaced by  
27 section 16 of P.L.1948, c.67 (C.17:9A-16), and ~~has~~ qualified to  
28 act as a fiduciary as provided for ~~in section 17:4-41~~ by R.S.17:4-  
29 41, repealed and replaced by section 30 of P.L.1948, c.67 (C.17:9A-  
30 30), ~~subject to the exception hereinafter made,~~ in order to  
31 facilitate ~~and hasten~~ the orderly liquidation ~~and the winding up~~  
32 of the affairs of the ~~"liquidating company"~~ predecessor  
33 company, ~~it shall and may be lawful for such~~ the ~~"successor~~  
34 company" successor company shall be permitted ~~from time to~~  
35 time, ~~to~~ take over and become be substituted as fiduciary in  
36 any or all those matters in which ~~said "liquidating company"~~  
37 the predecessor company has qualified~~;~~ in any and all matters  
38 where~~].~~

39 If in the sound judgment of the ~~"liquidating company"~~  
40 predecessor company and the ~~"successor company"~~ successor  
41 company such a substitution of fiduciary is deemed ~~advisable,~~ in  
42 the best interests of the trust or relation ~~[,]~~ and in aid of the  
43 ~~winding up of the affairs of the "liquidating company,"~~  
44 ~~"liquidating company"~~ liquidation, the predecessor company may  
45 file its account to date with the court having ~~the~~ jurisdiction

1 **【thereof】**, and upon approval **【of such account】** thereof and **【upon**  
2 **the】** discharge **【of the "liquidating company"】** from **【such】** the  
3 trust or relation the **【said " successor company"】** successor  
4 company shall succeed to **【all such】** the rights, relations, and trusts  
5 and **【the】** associated duties **【connected therewith】**, and shall  
6 execute and perform **【each and every such】** the trust or relation **【in**  
7 **the same manner】** as if **【such "successor company"】** the successor  
8 company had **【itself】** originally assumed the trust or relation;  
9 provided, however, that the **【"successor company"】** successor  
10 company shall not assume **【no】** the liabilities **【which may have**  
11 **been】** incurred by the **【"liquidating company"】** predecessor  
12 company incident to its administration of **【such】** the trust or  
13 relation.

14 **【The "successor company"】** Subject to this section, the successor  
15 company shall **【as to such matters】** succeed to **【all】** the rights and  
16 duties of the **【"liquidating company"】** predecessor company and to  
17 all fiduciary capacities**【, whether as administrator, coadministrator,**  
18 **executor, coexecutor, trustee or cotrustee, guardian, coguardian,**  
19 **assignee, coassignee, receiver, coreceiver, committee or**  
20 **committeeman of estates of lunatics, or in any other fiduciary**  
21 **capacity of or】** in respect to any estate or trust or other matter being  
22 administered under the laws of New Jersey, or as transfer agent or  
23 registrar of stocks and bonds**【, such relations as well as any other or**  
24 **similar fiduciary relations and all rights, privileges and duties**  
25 **connected therewith shall remain unimpaired, subject as**  
26 **aforesaid,】**.

27 Subject to this section, all fiduciary rights, privileges, and duties  
28 shall remain unimpaired and shall continue **【into and】** in the **【said】**  
29 **【"successor company"】** successor company from **【and as of】** the  
30 date of discharge by the court of the **【"liquidating company"】**  
31 predecessor company from **【such】** the trust or relation, **【by the**  
32 **court, irrespective】** regardless of : (i) the date **【when such】** the  
33 relationship **【may have been created or】** was established **【, and**  
34 **irrespective of the date of said】** ; (ii) the trust agreement **【relating**  
35 **thereto or the date of death of any】** was created; or (iii) the trustor  
36 **【or】** , the decedent **【or lunatic】** , the person who is mentally  
37 incapacitated, or the minor **【whose estate is being so administered**  
38 **or managed, and it shall not be necessary for said "successor**  
39 **company"】** died, without the need for the successor company to  
40 seek appointment in **【said】** the person's estates **【by any court of**  
41 **this State】**; provided **【, further,】** that **【in all cases】** where the  
42 instrument under which the **【"liquidating company"】** predecessor  
43 company qualified to act did not require the **【"liquidating company"】**  
44 to furnish **【furnishing of a bond, no】** **【such】** bond shall be required

1 **【**of the "successor company" as provided for in section 17:4-41, or  
2 otherwise. The terms "successor company" and "liquidating  
3 company" as used herein shall apply to and be construed to have  
4 the same meaning as is placed on said terms by section 17:4-9**】**.

5 (cf: P.L.1942, c.230, s.1)

6  
7 61. Section 18 of P.L.1969, c.242 (C.18A:66-184) is amended to  
8 read as follows:

9 18. The disability benefits provided under **【such】** a group policy  
10 or policies for all eligible participants in the alternate benefit  
11 programs shall provide a monthly income if the participant becomes  
12 totally disabled from occupational or nonoccupational causes for a  
13 period of at least **【6】** six consecutive months following the  
14 effective date of the coverage. The monthly disability benefit may  
15 be paid by the insurance company so long as the participant remains  
16 disabled up to **【his seventieth】** the participant's 70th birthday,  
17 provided the disability commenced prior to **【his sixtieth】** the  
18 participant's 60th birthday. The benefit will terminate when the  
19 participant is no longer considered totally disabled or begins to  
20 receive retirement benefits.

21 The participant will be considered totally disabled if **【he is】**  
22 unable to perform each duty of **【his】** the participant's occupation  
23 and is under the regular care of a physician. After the 12 months  
24 following the commencement of **【such】** the disability benefit  
25 payments, **【he】** the participant must be unable to engage in any  
26 gainful occupation for which **【he】** the participant is reasonably  
27 fitted by education, training, or experience. Total disability is not  
28 considered to exist if **【he】** the participant is gainfully employed.  
29 However, following an agreement with the insurance company and  
30 the policyholder, the participant can continue to receive disability  
31 benefits for a limited time while performing some type of work.  
32 During the period of rehabilitation the monthly benefit will be the  
33 regular payment less 80% of the participant's earnings from **【such】**  
34 the rehabilitative position.

35 For purposes of this section, a participant shall be deemed to be  
36 in service and covered by the disability benefit insurance provisions  
37 for a period of no more than **【6】** six months while on official leave  
38 of absence without pay if satisfactory evidence is presented to the  
39 Division of Pensions and Benefits that **【such】** the leave of absence  
40 without pay is due to illness and that the member was not actively  
41 engaged in any gainful occupation during **【such】** the period of  
42 leave of absence without pay.

43 Disability benefit insurance provisions of the group policy or  
44 policies shall not cover disability resulting from or contributed to  
45 by pregnancy, act of war, intentionally self-inflicted injury, or  
46 attempted suicide **【whether or not sane】** regardless of mental

1 capacity. For purposes of **【such】** disability insurance the  
 2 participant will not be considered to be disabled while **【he is】**  
 3 imprisoned or **【while】** outside the United States, its territories or  
 4 possessions, or Canada.

5 If the participant has recovered from the disability for which  
 6 **【he】** the participant had received benefits and again becomes totally  
 7 disabled while insured, the later disability will be regarded as a  
 8 continuation of the prior one unless the participant has returned to  
 9 full-time covered employment for at least **【6】** six months.  
 10 However, if the later absence is due to an unrelated cause and the  
 11 participant had returned to full-time work, it will be considered a  
 12 new disability. The disability benefit insurance cannot be converted  
 13 to an individual policy.

14 No person shall be covered by the disability benefit provision of  
 15 the group policy or policies except upon the completion of one year  
 16 of full-time continuous employment in a position eligible for  
 17 participation in the alternate benefit program.  
 18 (cf: P.L.1969, c.242, s.18)

19

20 62. N.J.S.22A:2-10 is amended to read as follows:

21 22A:2-10. Chancery Division of Superior Court; costs awarded.

22 Upon the completion and determination of the following actions  
 23 and proceedings in the Chancery Division of the Superior Court, the  
 24 costs awarded to a party therein for the drawing of papers, including  
 25 orders, writs and judgments, shall be as stated below:

26	Plaintiff's costs, foreclosure	\$ 50.00
27	Plaintiff's costs, partition	70.00
28	Plaintiff's and receiver's costs, receivership	125.00
29	Plaintiff's costs, receivership	62.50
30	Receiver's costs, receivership	62.50
31	Plaintiff's costs, divorce, dissolution of civil	
32	union, nullity, custody	30.00
33	Plaintiff's costs, causes of action for other relief	65.00
34	Plaintiff's costs, <b>【incompetency】</b> <u>incapacity</u> action	47.50
35	Plaintiff's costs, sale of lands of <b>【infant】</b> <u>minor</u>	
36	or <b>【incompetent】</b> <u>incapacitated individual</u>	50.00
37	Plaintiff's costs, release of dower or curtesy	50.00
38	Plaintiff's costs, mortgage lands of <b>【an infant】</b> <u>a minor</u> or	
39	<b>【incompetent】</b> <u>incapacitated individual</u>	50.00
40	Plaintiff's costs, interpleader	35.00
41	Plaintiff's costs, appointment of tax receiver	27.50
42	Plaintiff's costs, actions for payment of money	
43	into court; to hold real estate; to limit creditors	22.50
44	Plaintiff's costs, action for appointment of	
45	trustee or substituted trustee	33.50
46	Costs on contempt proceedings	25.00
47	Costs on application to fix dower or curtesy	22.50

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1	Costs on application to pay moneys out of court	23.50
2	Costs on application for instructions, or to	
3	approve account	30.00
4	Costs on application for writ of execution	10.00
5	Costs on application for relief from final judgment	
6	or, in a matrimonial cause from judgment	
7	nisi or order	20.00
8	Costs on application for writ of possession	30.00
9	Costs on application for alimony pendente lite,	
10	attorney fee, suit money	20.00
11	Defendant's costs where final judgment	
12	is taken by <b>【him】</b> <u>defendant</u>	30.00
13	Defendant's costs where final judgment is	
14	not taken by <b>【him】</b> <u>defendant</u>	20.00
15	Costs upon any other litigated or special motion,	
16	subsidiary or interlocutory, not heretofore	
17	provided for	50.00
18	(cf: P.L.2006, c.103, s.84)	

19

20 63. Section 2 of P.L.1991, c.201 (C.26:2H-54) is amended to  
21 read as follows:

22 2. The Legislature finds and declares that:

23 a. **【Competent adults】** Adults have the fundamental right, in  
24 collaboration with their health care providers, to control decisions  
25 about their own health care unless they lack the mental capacity to  
26 do so. This State recognizes, in its law and public policy, the  
27 personal right of the individual patient to make voluntary, informed  
28 choices to accept, to reject, or to choose among alternative courses  
29 of medical and surgical treatment.

30 b. Modern advances in science and medicine have made possible  
31 the prolongation of the lives of many seriously ill individuals,  
32 without always offering realistic prospects for improvement or cure.  
33 For some individuals, the possibility of extended life is experienced  
34 as meaningful and of benefit. For others, artificial prolongation of  
35 life may seem to provide nothing medically necessary or beneficial,  
36 serving only to extend suffering and prolong the dying process.  
37 This State recognizes the inherent dignity and value of human life  
38 and within this context recognizes the fundamental right of  
39 individuals to make health care decisions to have life-prolonging  
40 medical or surgical means or procedures provided, withheld, or  
41 withdrawn.

42 c. In order that the right to control decisions about one's own  
43 health care should not be lost in the event a patient loses decision  
44 making capacity and is no longer able to participate actively in  
45 making **【his own】** such health care decisions, this State recognizes  
46 the right of **【competent】** adults, who have the mental capacity, to  
47 plan ahead for health care decisions through the execution of

1 advance directives, such as living wills and durable powers of  
2 attorney, and to have the wishes expressed therein respected,  
3 subject to certain limitations.

4 d. The right of individuals to forego life-sustaining measures is  
5 not absolute and is subject to certain interests of society. The most  
6 significant of these societal interests is the preservation of life,  
7 understood to embrace both an interest in preserving the life of the  
8 particular patient and a related but distinct interest in preserving the  
9 sanctity of all human life as an enduring social value. A second,  
10 closely related societal interest is the protection of individuals from  
11 direct and purposeful self-destruction, motivated by a specific intent  
12 to die. A third interest is the protection of innocent third parties  
13 who may be harmed by the patient's decision to forego therapy; this  
14 interest may be asserted to prevent the emotional and financial  
15 abandonment of the patient's minor children or to protect the  
16 paramount concerns of public health or safety. A fourth interest  
17 encompasses safeguarding the ethical integrity of the health care  
18 professions, individual professionals, and health care institutions,  
19 and maintaining public confidence and trust in the integrity and  
20 caring role of health care professionals and institutions. Finally,  
21 society has an interest in ensuring the soundness of health care  
22 decision making, including both protecting vulnerable patients from  
23 potential abuse or neglect and facilitating the exercise of informed  
24 and voluntary patient choice.

25 e. In accordance with these State interests, this State expressly  
26 rejects on both legal and moral grounds the practice of active  
27 euthanasia. No individual shall have the right to, nor shall any  
28 physician or other health care professional be authorized to engage  
29 in, the practice of active euthanasia.

30 f. In order to assure respect for patients' previously expressed  
31 wishes when the capacity to participate actively in decision making  
32 has been lost or impaired; to facilitate and encourage a sound  
33 decision making process in which patients, health care  
34 representatives, families, physicians, and other health care  
35 professionals are active participants; to properly consider patients'  
36 interests both in self-determination and in well-being; and to  
37 provide necessary and appropriate safeguards concerning the  
38 termination of life-sustaining treatment for **【incompetent】** patients  
39 who lack mental capacity as the law and public policy of this State,  
40 the Legislature hereby enacts the New Jersey Advance Directives  
41 for Health Care Act.

42 (cf: P.L.1991, c.201, s.2)

43

44 64. Section 3 of P.L.1991, c.201 (C.26:2H-55) is amended to  
45 read as follows:

46 3. As used in **【this act】** P.L.1991, c.201 (C.26:2H-53 et seq.):

1 "Adult" means an individual **[18 years of age or older]** who has  
2 reached majority pursuant to section 3 of P.L.1972, c.81 (C.9:17B-  
3 3).

4 "Advance directive for health care" or "advance directive" means  
5 a writing executed in accordance with the requirements of **[this act]**  
6 P.L.1991, c.201. An "advance directive" may include a proxy  
7 directive or an instruction directive, or both.

8 "Attending physician" means the physician selected by, or  
9 assigned to, the patient who has primary responsibility for the  
10 treatment and care of the patient.

11 "Decision making capacity" means a patient's ability to  
12 understand and appreciate the nature and consequences of health  
13 care decisions, including the benefits and risks of each, and  
14 alternatives to any proposed health care, and to reach an informed  
15 decision. A patient's decision making capacity is evaluated relative  
16 to the demands of a particular health care decision.

17 "Declarant" means **[a competent]** an adult who [executes] has  
18 the mental capacity to execute an advance directive and does so.

19 "Do not resuscitate order" means a physician's written order not  
20 to attempt cardiopulmonary resuscitation in the event the patient  
21 suffers a cardiac or respiratory arrest.

22 "Emergency care" means immediate treatment provided in  
23 response to a sudden, acute, and unanticipated medical crisis in  
24 order to avoid injury, impairment, or death.

25 "Health care decision" means a decision to accept or to refuse  
26 any treatment, service, or procedure used to diagnose, treat, or care  
27 for a patient's physical or mental condition, including life-sustaining  
28 treatment. "Health care decision" also means a decision to accept  
29 or to refuse the services of a particular physician, nurse, other  
30 health care professional or health care institution, including a  
31 decision to accept or to refuse a transfer of care.

32 "Health care institution" means all institutions, facilities, and  
33 agencies licensed, certified, or otherwise authorized by State law to  
34 administer health care in the ordinary course of business, including  
35 hospitals, nursing homes, residential health care facilities, home  
36 health care agencies, hospice programs operating in this State,  
37 mental health institutions, facilities or agencies, or institutions,  
38 facilities, and agencies for the developmentally disabled. The term  
39 "health care institution" shall not be construed to include "health  
40 care professionals" as defined in **[this act]** P.L.1991, c.201.

41 "Health care professional" means an individual licensed by this  
42 State to administer health care in the ordinary course of business or  
43 practice of a profession.

44 "Health care representative" means the individual designated by  
45 a declarant pursuant to the proxy directive part of an advance  
46 directive for the purpose of making health care decisions on the  
47 declarant's behalf, and includes an individual designated as an  
48 alternate health care representative who is acting as the declarant's

1 health care representative in accordance with the terms and order of  
2 priority stated in an advance directive.

3 "Instruction directive" means a writing which provides  
4 instructions and direction regarding the declarant's wishes for health  
5 care in the event that the declarant subsequently lacks decision  
6 making capacity.

7 "Life-sustaining treatment" means the use of any medical device  
8 or procedure, artificially provided fluids and nutrition, drugs,  
9 surgery, or therapy that uses mechanical or other artificial means to  
10 sustain, restore, or supplant a vital bodily function, and thereby  
11 increase the expected life span of a patient.

12 "Other health care professionals" means health care professionals  
13 other than physicians and nurses.

14 "Patient" means an individual who is under the care of a  
15 physician, nurse, or other health care professional.

16 "Permanently unconscious" means a medical condition that has  
17 been diagnosed in accordance with currently accepted medical  
18 standards and with reasonable medical certainty as total and  
19 irreversible loss of consciousness and capacity for interaction with  
20 the environment. The term "permanently unconscious" includes  
21 without limitation a persistent vegetative state or irreversible coma.

22 "Physician" means an individual licensed to practice medicine  
23 and surgery in this State.

24 "Proxy directive" means a writing which designates a health care  
25 representative in the event the declarant subsequently lacks decision  
26 making capacity.

27 "State" means a state, territory, or possession of the United  
28 States, the District of Columbia, or the Commonwealth of Puerto  
29 Rico.

30 "Terminal condition" means the terminal stage of an irreversibly  
31 fatal illness, disease, or condition. A determination of a specific  
32 life expectancy is not required as a precondition for a diagnosis of a  
33 "terminal condition," but a prognosis of a life expectancy of six  
34 months or less, with or without the provision of life-sustaining  
35 treatment, based upon reasonable medical certainty, shall be  
36 deemed to constitute a terminal condition.

37 (cf: P.L.1991, c.201, s.3)

38

39 65. Section 5 of P.L.1991, c.201 (C.26:2H-57) is amended to  
40 read as follows:

41 5. a. A declarant may reaffirm or modify either a proxy  
42 directive, or an instruction directive, or both. The reaffirmation or  
43 modification shall be made in accordance with the requirements for  
44 execution of an advance directive pursuant to section 4 of **[this act]**  
45 P.L.1991, c.201 (C.26:2H-56).

46 b. A declarant may revoke an advance directive, including a  
47 proxy directive, or an instruction directive, or both, by the  
48 following means:



1 (1) Notification, orally or in writing, to the health care  
2 representative, physician, nurse, or other health care professional,  
3 or other reliable witness, or by any other act evidencing an intent to  
4 revoke the document; or

5 (2) Execution of a subsequent proxy directive or instruction  
6 directive, or both, in accordance with section 4 of **[this act]**  
7 P.L.1991, c.201 (C.26:2H-56).

8 c. Designation of the declarant's spouse as health care  
9 representative shall be revoked upon divorce or legal separation,  
10 and designation of the declarant's domestic partner as defined in  
11 section 3 of P.L.2003, c.246 (C.26:8A-3) as health care  
12 representative shall be revoked upon termination of the declarant's  
13 domestic partnership or designation of the declarant's partner in a  
14 civil union as defined in section 2 of P.L.2006, c.103 (C.37:1-29)  
15 shall be revoked upon termination of the declarant's civil union,  
16 unless otherwise specified in the advance directive.

17 d. **[An incompetent]** A patient who lacks mental capacity may  
18 suspend an advance directive, including a proxy directive, an  
19 instruction directive, or both, by any of the means stated in  
20 paragraph (1) of subsection b. of this section. **[An incompetent]** A  
21 patient who lacks mental capacity and has suspended an advance  
22 directive may reinstate that advance directive by oral or written  
23 notification to the health care representative, physician, nurse, or  
24 other health care professional of an intent to reinstate the advance  
25 directive.

26 e. Reaffirmation, modification, revocation, or suspension of an  
27 advance directive is effective upon communication to any person  
28 capable of transmitting the information including the health care  
29 representative, the attending physician, nurse, or other health care  
30 professional responsible for the patient's care.

31 (cf: P.L.2003, c.246, s.28)

32  
33 66. Section 6 of P.L.1991, c.201 (C.26:2H-58) is amended to  
34 read as follows:

35 6. a. A declarant may execute a proxy directive, pursuant to the  
36 requirements of section 4 of **[this act]** P.L.1991, c.201 (C.26:2H-  
37 56), designating **[a competent]** an adult with mental capacity to act  
38 as **[his]** the declarant's health care representative.

39 (1) **[A competent]** An adult who has mental capacity, including,  
40 but not limited to, a declarant's spouse, partner in a civil union as  
41 defined in section 2 of P.L.2006, c.103 (C.37:1-29), domestic  
42 partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3),  
43 adult child, parent, or other family member, friend, religious or  
44 spiritual advisor, or other person of the declarant's choosing, may  
45 be designated as a health care representative.

46 (2) An operator, administrator, or employee of a health care  
47 institution in which the declarant is a patient or resident shall not

1 serve as the declarant's health care representative unless the  
2 operator, administrator, or employee is related to the declarant by  
3 blood, marriage, domestic partnership, civil union, or adoption.

4 This restriction does not apply to a physician, if the physician  
5 does not serve as the patient's attending physician and the patient's  
6 health care representative at the same time.

7 (3) A declarant may designate one or more alternate health care  
8 representatives, listed in order of priority. In the event the primary  
9 designee is unavailable, unable, or unwilling to serve as health care  
10 representative, or is disqualified from such service pursuant to this  
11 section or any other law, the next designated alternate shall serve as  
12 health care representative. In the event the primary designee  
13 subsequently becomes available and able to serve as health care  
14 representative, the primary designee may, insofar as then  
15 practicable, serve as health care representative.

16 (4) A declarant may direct the health care representative to  
17 consult with specified individuals, including alternate designees,  
18 family members, and friends, in the course of the decision making  
19 process.

20 (5) A declarant shall state the limitations, if any, to be placed  
21 upon the authority of the health care representative including the  
22 limitations, if any, which may be applicable if the declarant is  
23 pregnant.

24 b. A declarant may execute an instruction directive, pursuant to  
25 the requirements of section 4 of **[this act]** P.L.1991, c.201  
26 (C.26:2H-56), stating the declarant's general treatment philosophy  
27 and objectives; or the declarant's specific wishes regarding the  
28 provision, withholding, or withdrawal of any form of health care,  
29 including life-sustaining treatment; or both. An instruction  
30 directive may, but need not, be executed contemporaneously with,  
31 or be attached to, a proxy directive.

32 (cf: P.L.2003, c.246, s.29)

33

34 67. Section 8 of P.L.1991, c.201 (C.26:2H-60) is amended to  
35 read as follows:

36 8. a. The attending physician shall determine whether the  
37 patient lacks capacity to make a particular health care decision. The  
38 determination shall be stated in writing, shall include the attending  
39 physician's opinion concerning the nature, cause, extent, and  
40 probable duration of the patient's incapacity, and shall be made a  
41 part of the patient's medical records.

42 b. The attending physician's determination of a lack of decision  
43 making capacity shall be confirmed by one or more physicians. The  
44 opinion of the confirming physician shall be stated in writing and  
45 made a part of the patient's medical records in the same manner as  
46 that of the attending physician. Confirmation of a lack of decision  
47 making capacity is not required when the patient's lack of decision  
48 making capacity is clearly apparent, and the attending physician and

1 the health care representative agree that confirmation is  
2 unnecessary.

3 c. If the attending physician or the confirming physician  
4 determines that a patient lacks decision making capacity because of  
5 a mental or psychological impairment or a developmental disability,  
6 and neither the attending physician or the confirming physician has  
7 specialized training or experience in diagnosing mental or  
8 psychological conditions or developmental disabilities of the same  
9 or similar nature, a determination of a lack of decision making  
10 capacity shall be confirmed by one or more physicians with  
11 appropriate specialized training or experience. The opinion of the  
12 confirming physician shall be stated in writing and made a part of  
13 the patient's medical records in the same manner as that of the  
14 attending physician.

15 d. A physician designated by the patient's advance directive as a  
16 health care representative shall not make or confirm the  
17 determination of a lack of decision making capacity.

18 e. The attending physician shall inform the patient, if the patient  
19 has any ability to comprehend that he has been determined to lack  
20 decision making capacity, and the health care representative that:  
21 (1) the patient has been determined to lack decision making  
22 capacity to make a particular health care decision; (2) each has the  
23 right to contest this determination; and (3) each may have recourse  
24 to the dispute resolution process established by the health care  
25 institution pursuant to section 14 of **【this act】** P.L.1991, c.201  
26 (C.26:2H-66).

27 Notice to the patient and the health care representative shall be  
28 documented in the patient's medical records.

29 f. A determination of lack of decision making capacity under  
30 this act is solely for the purpose of implementing an advance  
31 directive in accordance with the provisions of this act, and shall not  
32 be construed as a determination of a patient's incapacity **【or**  
33 **incompetence】** for any other purpose.

34 g. For purposes of this section, a determination that a patient  
35 lacks decision making capacity shall be based upon, but need not be  
36 limited to, evaluation of the patient's ability to understand and  
37 appreciate the nature and consequences of a particular health care  
38 decision, including the benefits and risks of, and alternatives to, the  
39 proposed health care, and to reach an informed decision.

40 (cf: P.L.1991, c.201, s.8)

41

42 68. Section 2 of P.L.2005, c.233 (C.26:2H-103) is amended to  
43 read as follows:

44 2. The Legislature finds and declares that:

45 a. This State recognizes, in its law and public policy, a patient's  
46 right to make voluntary, informed choices to accept, reject, or  
47 choose among alternative courses of medical and surgical treatment,  
48 and specifically for **【a competent】** an adult who has mental capacity

1 to plan ahead for health care decisions through the execution of an  
2 advance directive for health care, otherwise known as a living will  
3 or durable power of attorney for health care, and to have the wishes  
4 expressed therein respected, subject to certain limitations;

5 b. Advance directives for health care provide a vehicle for  
6 **【competent】** adults who have mental capacity to operationalize  
7 their fundamental legal right to accept or refuse medical treatment  
8 in the event that they are rendered unable to make decisions and  
9 communicate with a health care provider about their treatment  
10 options because of serious illness, injury, or permanent loss of  
11 mental capacity;

12 c. The issues affecting persons with mental illness and their  
13 psychiatric needs warrant enactment of a separate statute governing  
14 advance directives for these individuals, who: find their civil rights  
15 and due process protections frequently compromised; often lack the  
16 resources, societal supports, and self-esteem needed to make  
17 advance directives for health care work for them; and are  
18 disadvantaged by the fact that many physicians and attorneys are  
19 unaware of the specific issues that typically enter into the decisions  
20 that a person with mental illness may make for himself when in  
21 crisis;

22 d. The provision by statute of advanced directives for mental  
23 health care will assure respect for the rights of patients with mental  
24 illness with respect to the provision of mental health services and  
25 their decision-making in regard thereto; and

26 e. In order to permit a person with mental illness to execute an  
27 advance directive that specifies preferences for mental health  
28 services in the event that the declarant is subsequently determined  
29 to lack decision-making capacity, the Legislature hereby enacts the  
30 "New Jersey Advance Directives for Mental Health Care Act."  
31 (cf: P.L.2005, c.233, s.2)

32

33 69. Section 3 of P.L.2005, c.233 (C.26:2H-104) is amended to  
34 read as follows:

35 3. As used in this act:

36 "Adult" means an individual **【18 years of age or older】** who has  
37 reached majority pursuant to section 3 of P.L.1972, c.81 (C.9:17B-  
38 3).

39 "Advance directive for mental health care" or "advance  
40 directive" means a writing executed in accordance with the  
41 requirements of this act. An "advance directive" may include a  
42 proxy directive or an instruction directive, or both.

43 "Decision-making capacity" means a patient's ability to  
44 understand and appreciate the nature and consequences of mental  
45 health care decisions, including the benefits and risks of each, and  
46 alternatives to any proposed mental health care, and to reach an  
47 informed decision. A patient's decision-making capacity is

1 evaluated relative to the demands of a particular mental health care  
2 decision.

3 "Declarant" means **[a competent]** an adult who **[executes]** has  
4 the mental capacity to execute an advance directive for mental  
5 health care and does so.

6 "Domestic partner" means a domestic partner as defined in  
7 section 3 of P.L.2003, c.246 (C.26:8A-3).

8 "Instruction directive" means a writing which provides  
9 instructions and direction regarding the declarant's wishes for  
10 mental health care in the event that the declarant subsequently lacks  
11 decision-making capacity.

12 "Mental health care decision" means a decision to accept or  
13 refuse any treatment, service, or procedure used to diagnose, treat,  
14 or care for a patient's mental condition. "Mental health care  
15 decision" also means a decision to accept or refuse the services of a  
16 particular mental health care professional or psychiatric facility,  
17 including a decision to accept or to refuse a transfer of care.

18 "Mental health care professional" means an individual licensed  
19 or certified by this State to provide or administer mental health care  
20 in the ordinary course of business or practice of a profession.

21 "Mental health care representative" means the individual  
22 designated by a declarant pursuant to the proxy directive part of an  
23 advance directive for mental health care for the purpose of making  
24 mental health care decisions on the declarant's behalf, and includes  
25 an individual designated as an alternate mental health care  
26 representative who is acting as the declarant's mental health care  
27 representative in accordance with the terms and order of priority  
28 stated in an advance directive for mental health care.

29 "Patient" means an individual who is under the care of a mental  
30 health care professional.

31 "Proxy directive" means a writing which designates a mental  
32 health care representative in the event that the declarant  
33 subsequently lacks decision-making capacity.

34 "Psychiatric facility" means a State psychiatric facility listed in  
35 R.S.30:1-7, a county psychiatric hospital or the psychiatric unit of a  
36 county hospital, a short-term care facility, special psychiatric  
37 hospital or psychiatric unit of a general hospital or other health care  
38 facility licensed by the Department of Health pursuant to P.L.1971,  
39 c.136 (C.26:2H-1 et seq.), or a hospital or community-based mental  
40 health center or other entity licensed or funded by the Department  
41 of Human Services to provide community-based mental health  
42 services.

43 "Responsible mental health care professional" means a person  
44 licensed or certified by the State to provide or administer mental  
45 health care who is selected by, or assigned to, the patient and has  
46 primary responsibility for the care and treatment of the patient.

1 "State" means a state, territory, or possession of the United  
2 States, the District of Columbia, or the Commonwealth of Puerto  
3 Rico.

4 (cf: P.L.2012. c.17, s.248)

5  
6 70. Section 5 of P.L.2005, c.233 (C.26:2H-106) is amended to  
7 read as follows:

8 5. a. (1) An advance directive for mental health care shall be  
9 deemed to be valid for an indefinite period of time if it does not  
10 include an expiration date, subject to a declarant's right to modify,  
11 revoke, or suspend the advance directive in accordance with the  
12 provisions of this section.

13 (2) If an advance directive includes an expiration date that  
14 occurs during a period of time in which the declarant has been  
15 determined by the responsible mental health care professional to  
16 lack the capacity to make a particular mental health care decision,  
17 the advance directive shall remain in effect until the declarant is  
18 determined by the responsible mental health care professional to  
19 have regained the capacity to make a particular mental health care  
20 decision.

21 b. A declarant may state in an advance directive for mental  
22 health care, including a proxy directive or an instruction directive,  
23 or both, whether the declarant wishes to be able to modify, revoke  
24 or suspend the advance directive after it has become operative  
25 pursuant to section 7 of **[this act]** P.L.2005, c.233 (C.26:2H-108);  
26 however, the failure to include such a statement in the advance  
27 directive shall not be construed to prevent the declarant from  
28 modifying, revoking or suspending the advance directive under the  
29 circumstances described in this subsection.

30 c. A declarant may reaffirm or modify an advance directive for  
31 mental health care, including a proxy directive or an instruction  
32 directive, or both, subject to the provisions of subsection b. of this  
33 section. The reaffirmation or modification shall be made in  
34 accordance with the requirements for execution of an advance  
35 directive for mental health care pursuant to section 4 of **[this act]**  
36 P.L.2005, c.233 (C.26:2H-105).

37 d. A declarant may revoke an advance directive for mental  
38 health care, including a proxy directive or an instruction directive,  
39 or both, subject to the provisions of subsection b. of this section, by  
40 the following means:

41 (1) notification, orally or in writing, to the mental health care  
42 representative or mental health care professional, or other reliable  
43 witness, or by any other act evidencing an intent to revoke the  
44 document; or

45 (2) execution of a subsequent proxy directive or instruction  
46 directive, or both, in accordance with section 4 of **[this act]**  
47 P.L.2005, c.233 (C.26:2H-105).

1 e. Designation of the declarant's spouse as mental health care  
2 representative shall be revoked upon divorce or legal separation,  
3 and designation of the declarant's domestic partner as mental health  
4 care representative shall be revoked upon termination of the  
5 declarant's domestic partnership or designation of the declarant's  
6 civil union partner as mental health care representative shall be  
7 revoked upon termination of the declarant's civil union, unless  
8 otherwise specified in the advance directive.

9 f. An inpatient in a psychiatric facility may modify, revoke, or  
10 suspend an advance directive for mental health care, including a  
11 proxy directive or an instruction directive, or both, by any of the  
12 means stated in paragraph (1) of subsection d. of this section, unless  
13 a responsible mental health professional determines, in accordance  
14 with the provisions of section 8 of **【this act】** P.L.2005, c.233  
15 (C.26:2H-109), that the patient lacks decision-making capacity to  
16 make the decision to modify, revoke, or suspend the advance  
17 directive. A patient who has modified, revoked, or suspended an  
18 advance directive may reinstate that advance directive by oral or  
19 written notification to the mental health care representative or  
20 mental health care professional of an intent to reinstate the advance  
21 directive.

22 g. Reaffirmation, modification, or revocation of an advance  
23 directive for mental health care is effective upon communication to  
24 any person capable of transmitting the information, including the  
25 mental health care representative or mental health care professional  
26 responsible for the patient's care.

27 (cf: P.L.2005, c.233, s.5)

28

29 71. Section 6 of P.L.2005, c.233 (C.26:2H-107) is amended to  
30 read as follows:

31 6. a. A declarant may execute a proxy directive, pursuant to the  
32 requirements of section 4 of **【this act】** P.L.2005, c.233 (C.26:2H-  
33 105), designating **【a competent】** an adult who has mental capacity  
34 to act as the declarant's mental health care representative.

35 (1) **【A competent】** An adult who has mental capacity, including,  
36 but not limited to, a declarant's spouse, domestic partner, civil union  
37 partner, adult child, parent, or other family member, friend,  
38 religious or spiritual advisor, or other person of the declarant's  
39 choosing, may be designated as a mental health care representative.

40 (2) An operator, administrator, or employee of a psychiatric  
41 facility in which the declarant is a patient or resident shall not serve  
42 as the declarant's mental health care representative unless the  
43 operator, administrator, or employee is related to the declarant by  
44 blood, marriage, domestic partnership, civil union, or adoption.

45 This restriction shall not apply to a mental health care  
46 professional if that individual does not serve as the patient's  
47 responsible mental health care professional or other provider of

1 mental health care services to the patient and the patient's mental  
2 health care representative at the same time.

3 (3) A declarant may designate one or more alternate mental  
4 health care representatives, listed in order of priority. In the event  
5 that the primary designee is unavailable, unable, or unwilling to  
6 serve as mental health care representative, or is disqualified from  
7 such service pursuant to this section or any other law, the next  
8 designated alternate shall serve as mental health care representative.  
9 In the event that the primary designee subsequently becomes  
10 available and able to serve as mental health care representative, the  
11 primary designee may, insofar as then practicable, serve as mental  
12 health care representative.

13 (4) A declarant may direct the mental health care representative  
14 to consult with specified individuals, including alternate designees,  
15 family members, and friends, in the course of the decision-making  
16 process.

17 (5) A declarant shall state the limitations, if any, to be placed  
18 upon the authority of the mental health care representative.

19 (6) If a declarant explicitly authorizes the mental health care  
20 representative to consent to the declarant's admission to a  
21 psychiatric facility, the declarant shall separately initial each  
22 paragraph in which that authorization is granted at the time that the  
23 proxy directive is signed and witnessed.

24 b. A declarant may execute an instruction directive, pursuant to  
25 the requirements of section 4 of **[this act]** P.L.2005, c.233  
26 (C.26:2H-105), which specifies preferences for mental health  
27 services in the event that the declarant is subsequently determined  
28 to lack decision-making capacity.

29 (1) The instruction directive may include: a statement of the  
30 declarant's general mental health care philosophy and objectives;  
31 the declarant's specific wishes regarding the provision, withholding,  
32 or withdrawal of any form of mental health care; or both.

33 (2) The declarant's specific wishes regarding the provision,  
34 withholding, or withdrawal of any form of mental health care may  
35 include:

36 (a) the identification of mental health care professionals and  
37 programs and psychiatric facilities that the declarant would prefer  
38 to provide mental health services;

39 (b) consent to admission to a psychiatric facility for up to a  
40 specified number of days;

41 (c) a refusal to accept specific types of mental health treatment,  
42 including medications;

43 (d) a statement of medications preferred by the declarant for  
44 mental health treatment;

45 (e) a statement of the preferred means of crisis intervention or  
46 other preferences for mental health treatment; and

47 (f) additional instructions or information concerning mental  
48 health care.



1 (3) An instruction directive may, but need not, be executed  
2 contemporaneously with, or be attached to, a proxy directive.

3 (cf: P.L.2005, c.233, s.6)

4

5 72. Section 8 of P.L.2005, c.233 (C.26:2H-109) is amended to  
6 read as follows:

7 8. a. The responsible mental health care professional shall  
8 determine whether the patient lacks the capacity to make a  
9 particular mental health care decision. The determination shall: be  
10 stated in writing; include the responsible mental health care  
11 professional's opinion concerning the nature, cause, extent, and  
12 probable duration of the patient's incapacity; and be made a part of  
13 the patient's medical records.

14 b. The responsible mental health care professional's  
15 determination of a lack of decision-making capacity shall be  
16 confirmed by one or more mental health care professionals. The  
17 opinion of the confirming mental health care professional shall be  
18 stated in writing and made a part of the patient's medical records in  
19 the same manner as that of the responsible mental health care  
20 professional.

21 c. A mental health care professional designated by the patient's  
22 advance directive as a mental health care representative shall not  
23 make the determination of a lack of decision-making capacity.

24 d. The responsible mental health care professional shall inform  
25 the patient, if the patient has any ability to comprehend that he has  
26 been determined to lack decision-making capacity, and the mental  
27 health care representative that:

28 (1) the patient has been determined to lack decision-making  
29 capacity to make a particular mental health care decision;

30 (2) each has the right to contest this determination; and

31 (3) each may have recourse to the dispute resolution process  
32 established by the psychiatric facility pursuant to section 14 of **[this**  
33 **act]** P.L.2005, c.223 (C.26:2H-115). Notice to the patient and the  
34 mental health care representative shall be documented in the  
35 patient's medical records.

36 e. A determination of lack of decision-making capacity under  
37 this act shall be solely for the purpose of implementing an advance  
38 directive for mental health care in accordance with the provisions of  
39 this act, and shall not be construed as a determination of a patient's  
40 incapacity **[or incompetence]** for any other purpose.

41 f. For the purposes of this section, a determination that a patient  
42 lacks decision-making capacity shall be based upon, but need not be  
43 limited to, an evaluation of the patient's ability to understand and  
44 appreciate the nature and consequences of a particular mental health  
45 care decision, including the benefits and risks of, and alternatives  
46 to, the proposed mental health care, and to reach an informed  
47 decision.

1 g. For the purposes of this section, "mental health care decision"  
2 includes a decision to modify, revoke, or suspend an advance  
3 directive for mental health care as provided in subsection f. of  
4 section 5 of **[this act]** P.L.2005, c.233 (C.26:2H-106).  
5 (cf: P.L.2005, c.233, s.8)

6  
7 73. Section 4 of P.L.1989, c.303 (C.26:5C-8) is amended to read  
8 as follows:

9 4. a. The content of a record referred to in section 3 of **[this**  
10 **act]** P.L.1989, c.303 (C.26:5C-7) may be disclosed in accordance  
11 with the prior written informed consent of the person who is the  
12 subject of the record or if the person is **[legally incompetent]**  
13 adjudicated incapacitated or deceased, in accordance with section 8  
14 of **[this act]** P.L.1989, c.303 (C.26:5C-12).

15 b. If the prior written consent of the person who is the subject of  
16 the record is not obtained, the person's records shall be disclosed  
17 only under the following conditions:

18 (1) To qualified personnel for the purpose of conducting  
19 scientific research, but a record shall be released for research only  
20 following review of the research protocol by an Institutional  
21 Review Board constituted pursuant to federal regulation 45 C.F.R.  
22 s. 46.101 et seq. The person who is the subject of the record shall  
23 not be identified, directly or indirectly, in any report of the research  
24 and research personnel shall not disclose the person's identity in any  
25 manner.

26 (2) To qualified personnel for the purpose of conducting  
27 management audits, financial audits, or program evaluation, but the  
28 personnel shall not identify, directly or indirectly, the person who is  
29 the subject of the record in a report of an audit or evaluation, or  
30 otherwise disclose the person's identity in any manner. Identifying  
31 information shall not be released to the personnel unless it is vital to  
32 the audit or evaluation.

33 (3) To qualified personnel involved in medical education or in  
34 the diagnosis and treatment of the person who is the subject of the  
35 record. Disclosure is limited to only personnel directly involved in  
36 medical education or in the diagnosis and treatment of the person.

37 (4) To the department as required by State or federal law.

38 (5) As permitted by rules and regulations adopted by the  
39 commissioner for the purposes of disease prevention and control.

40 (6) In all other instances authorized by State or federal law.

41 (cf: P.L.1989, c.303, s.4)

42  
43 74. Section 8 of P.L.1989, c.303 (C.26:5C-12) is amended to  
44 read as follows:

45 8. When consent is required for disclosure of the record of a  
46 deceased or legally **[incompetent]** incapacitated person who has or

1 is suspected of having AIDS or HIV infection, consent may be  
2 obtained:

3 a. From an executor, administrator of the estate, or authorized  
4 representative of the legally **【incompetent】** incapacitated or  
5 deceased person;

6 b. From the person's spouse, domestic partner as defined in  
7 section 3 of P.L.2003, c.246 (C.26:8A-3), primary caretaking  
8 partner or, if none, by another member of the person's family; and

9 c. From the commissioner in the event that a deceased person  
10 has neither an authorized representative or next-of-kin.

11 (cf: P.L.2003, c.246, s.30)

12

13 75. R.S.30:1-18 is amended to read as follows:

14 R.S.30:1-18. No provision of this Title shall restrain or abridge  
15 the power and authority of the Superior Court over the persons and  
16 property of **【the incompetent or】** persons who are mentally ill or  
17 incapacitated.

18 (cf: P.L.1965, c.59, s.5)

19

20 76. R.S.30:4-1 is amended to read as follows:

21 R.S.30:4-1. The State board, with the approval of the Governor,  
22 shall appoint a board of trustees for each State institution or agency  
23 **【within the department】** or for each group or class thereof as it may  
24 determine, from residents of the State without respect to political  
25 affiliation or belief.

26 **【Whenever】** The State board, with the approval of the Governor,  
27 may appoint a board of trustees or authorize or designate an  
28 existing board of trustees whenever the establishment or assumption  
29 of jurisdiction over an additional institution, or the acquisition of  
30 **【a】** an institutional site **【therefor】**, is authorized by the Legislature  
31 **【the State board, with the approval of the Governor, may appoint a**  
32 **board of trustees therefor or may authorize or designate any existing**  
33 **board of trustees to assume jurisdiction thereof】.**

34 Each board of trustees of an institution shall be known as "the  
35 board of trustees" naming the institution or group or class for which  
36 the board is appointed. The State board, with the approval of the  
37 Governor, shall **【determine the names of】** name the boards of  
38 noninstitutional agencies.

39 Except as otherwise specifically provided by statute, the boards  
40 of trustees shall consist of not less than five nor more than seven  
41 members **【appointed with the approval of the Governor from**  
42 **residents of the State at large without respect to political affiliation**  
43 **or belief】.** At least two women shall be members of each board in  
44 charge of **【the Training School for Boys, Jamesburg, the Home for**  
45 **Disabled Soldiers, Sailors, Marines and their Wives and Widows,**  
46 **and】** the institutions or agencies for **【the】** persons who are blind,  
47 **【feeble-minded, the epileptic and the insane】** or who have a mental

1 illness or developmental disability, and at least two members of the  
2 Commission for the Blind and Visually Impaired shall themselves  
3 be legally blind but **【they shall】** not **【be】** employees, or related to  
4 an employee by blood, marriage, or adoption **【to any employee, or**  
5 related to an employee of said commission. At least a majority of  
6 the members of each board in charge of the Training School for  
7 Girls, Trenton, and the women's reformatory shall be women**】**.

8 The term of each board member shall be **【3】** three years  
9 commencing on July 1 and ending on June 30, of the third year  
10 thereafter. A vacancy shall be filled by the State board, with the  
11 approval of the Governor, for the unexpired term only.

12 The members of new or additional boards of trustees shall at the  
13 time of their appointment be divided into groups so that the terms of  
14 two members shall expire on June 30 of the year next succeeding  
15 appointment; the terms of two others on June 30 of the second year  
16 succeeding appointment; the term of the fifth member and in case of  
17 larger boards the term of the sixth member, on June 30 of the third  
18 year succeeding appointment; the term of the seventh member of a  
19 board having seven members, on June 30 of the fourth year  
20 succeeding appointment. Their successors shall be appointed for  
21 **【3-year】** three-year terms.

22 The members of **【such】** boards of trustees shall receive no  
23 compensation for services but shall be reimbursed for actual  
24 expenditures incurred in the performance of duty. They shall be  
25 subject to removal by the State board, with the approval of the  
26 Governor, at any time for good and sufficient cause.

27 **【On】** Annually, on or before July 1 **【of each year】** each **【such】**  
28 board of trustees shall **【reorganize by the election】** elect from  
29 **【among】** its members **【of】** a **【chairman and vice chairman】** chair  
30 and vice chair and shall appoint a secretary, with the approval of the  
31 chief executive officer of the institution, who shall be an employee  
32 of the **【department】** institution or agency and **【shall】** serve at the  
33 pleasure of the board without additional compensation. The term of  
34 office of the **【chairman and vice chairman】** chair and vice chair  
35 shall be until June 30 of the following year or until their successors  
36 are elected and qualified.

37 (cf: P.L.1977, c.63, s.12)

38

39 77. Section 1 of 1969, c.181 (C.30:4-7.1) is amended to read as  
40 follows:

41 1. It is hereby declared to be the public policy of this State to  
42 make maximum provision for the health, safety, and welfare of  
43 **【incompetent】** patients who are incapacitated and residents in State  
44 and county institutions for **【the mentally ill and developmentally**  
45 **disabled】** persons with mental illness and persons with  
46 developmental disabilities, for **【developmentally disabled】** persons

1 with developmental disabilities who are residents in community-  
2 based alternate living arrangements in the State or in private  
3 facilities both in and outside the State, and for inmates under age 18  
4 in State and county penal and correctional institutions, by  
5 permitting the chief executive officer of **【such】** the institution or  
6 the regional administrator of a Division of Developmental  
7 Disabilities community services region to consent to the utilization  
8 of appropriate medical, psychiatric, surgical, and dental treatment  
9 for **【such】** the patients, inmates, and residents where prescribed by  
10 a licensed physician or dentist as provided for herein.

11 (cf: P.L.1997, c.208, s.1)

12

13 78. Section 2 of P.L.1969, c.181 (C.30:4-7.2) is amended to read  
14 as follows:

15 2. The chief executive officer of a State or county **【institution**  
16 **for the mentally ill or developmentally disabled, of】** psychiatric  
17 hospital or developmental center, a State or county penal or  
18 correctional institution, **【of】** or a juvenile facility or detention  
19 center, or the regional administrator of a Division of Developmental  
20 Disabilities community services region is hereby authorized to give  
21 consent for medical, psychiatric, surgical, or dental treatment to  
22 **【incompetent】** patients who lack mental capacity, inmates, or  
23 juveniles under age 18, or residents, hospitalized, confined, or  
24 placed by the Division of Developmental Disabilities in  
25 community-based alternate living arrangements in the State or in  
26 private facilities both in and outside the State, under circumstances  
27 where it appears that:

28 **【(a)】** a. **【Such】** The patients, inmates, juveniles, or residents,  
29 because of **【incompetency】** mental incapacity or nonage, are legally  
30 prevented from giving consent to **【such】** the treatment**【,】**; and

31 **【(b)】** b. Either:

32 **【(i)】** (1) there is no parent or guardian known to **【such】** the  
33 officer or administrator, after reasonable inquiry, who **【is**  
34 **competent】** has the mental capacity to give consent for the  
35 treatment of patients, inmates under the age of 18, or residents**【,】** ;  
36 or

37 **【(ii)】** (2) where a parent or guardian, after reasonable notice of  
38 the proposed treatment and a request for consent, and prior to the  
39 date fixed in **【such】** the notice for the rendering of **【said】** the  
40 treatment, refuses or neglects to execute and submit to **【such】** the  
41 officer or administrator a writing expressing either the grant or  
42 denial of **【such】** the consent**【,】**; and

43 **【(c)】** c. Where a licensed physician, psychiatrist, surgeon, or  
44 dentist certifies that the treatment to be performed is essential and  
45 beneficial to the general health and welfare of **【such】** the patient,

1 inmate, or resident, or will improve **【his】** the opportunity for  
2 recovery or prolong or save **【his】** the person's life.

3 (cf: P.L.1997, c.208, s.2)

4

5 79. Section 10 of P.L.1965, c.59 (C.30:4-24.2) is amended to  
6 read as follows:

7 10. a. Subject to any other provisions of law and the  
8 **【Constitution】** Constitutions of New Jersey and the United States,  
9 no patient shall be deprived of any civil right solely **【by reason of**  
10 **his receiving】** because of receipt of treatment under the provisions  
11 of this Title nor shall **【such】** the treatment modify or vary any legal  
12 or civil right of any **【such】** patient, including, but not limited to, the  
13 right to register for and to vote at elections, or rights relating to the  
14 granting, forfeiture, or denial of a license, permit, privilege, or  
15 benefit pursuant to any law.

16 b. Every patient in treatment shall be entitled to all rights set  
17 forth in **【this act】** P.L.1965, c.59 and shall retain all rights not  
18 specifically denied him under this Title. A notice of the rights set  
19 forth in **【this act】** P.L.1965, c.59 shall be given to every patient  
20 within **【5】** five days of **【his】** admission to treatment. **【Such】** The  
21 notice shall be **【in writing and】** written in simple understandable  
22 language. It shall be in a language the patient understands and if the  
23 patient cannot read the notice, it shall be read to **【him】** the patient.  
24 **【In the case of an】** If a patient is adjudicated **【incompetent patient】**  
25 incapacitated, **【such procedure shall be followed for the patient's**  
26 **guardian】** the notice shall be given to the patient's guardian.  
27 Receipt of this notice shall be acknowledged in writing, with a copy  
28 placed in the patient's file. If the patient or guardian refuses to  
29 acknowledge receipt of the notice, the person delivering the notice  
30 shall state this in writing, with a copy placed in the patient's file.

31 c. No patient may be presumed to be **【incompetent】**  
32 incapacitated because **【he has been examined or treated】** of an  
33 examination or treatment for mental illness, regardless of whether  
34 **【such】** the evaluation or treatment was voluntarily or involuntarily  
35 received. **【Any】** A patient who leaves a mental health program  
36 following evaluation or treatment for mental illness, regardless of  
37 whether that evaluation or treatment was voluntarily or  
38 involuntarily received, shall be given a written statement of the  
39 substance of **【this act】** P.L.1965, c.59.

40 d. Each patient in treatment shall have the following rights, a list  
41 of which shall be prominently posted in all facilities providing  
42 **【such】** these services and otherwise brought to **【his】** the patient's  
43 attention by **【such】** additional means as the department may  
44 designate:

45 (1) To be free from unnecessary or excessive medication. No  
46 medication shall be administered unless at the written order of a

1 physician. Notation of each patient's medication shall be kept in  
2 **【his】** the patient's treatment records. At least weekly, the attending  
3 physician shall review the drug regimen of each patient under **【his】**  
4 the physician's care. All physician's orders or prescriptions shall be  
5 written with a termination date, which shall not exceed 30 days.  
6 Medication shall not be used as punishment, for the convenience of  
7 staff, as a substitute for a treatment program, or in quantities that  
8 interfere with the patient's treatment program. Voluntarily  
9 committed patients shall have the right to refuse medication.

10 (2) Not to be subjected to experimental research, shock  
11 treatment, psychosurgery, or sterilization, without the express and  
12 informed consent of the patient after consultation with counsel or  
13 interested party of the patient's choice. **【Such】** The consent shall  
14 be **【made】** in writing, a copy of which shall be placed in the  
15 patient's treatment record. If the patient has been adjudicated  
16 **【incompetent】** incapacitated, a court of competent jurisdiction shall  
17 **【hold a hearing to】** determine the necessity of **【such】** the procedure  
18 **【at which】** at a hearing where the client is physically present,  
19 represented by counsel, and provided the right and opportunity to be  
20 confronted with and to cross-examine **【all】** witnesses alleging the  
21 necessity of **【such】** the procedures. In **【such】** these proceedings,  
22 the burden of proof shall be on the party alleging the necessity of  
23 **【such】** the procedures. **【In the event that】** If a patient cannot afford  
24 counsel, the court shall appoint an attorney not less than 10 days  
25 before the hearing. An attorney so appointed shall be entitled to a  
26 reasonable fee to be determined by the court and paid by the county  
27 from which the patient was admitted. Under no circumstances may  
28 a patient in treatment be subjected to experimental research **【which**  
29 **is】** not directly related to the specific goals of **【his】** the patient's  
30 treatment program.

31 (3) To be free from physical restraint and isolation. Except for  
32 emergency situations, in which a patient has caused substantial  
33 property damage or **【has】** attempted to harm himself or others and  
34 in which less restrictive means of restraint are not feasible, a patient  
35 may be physically restrained or placed in isolation, only on a  
36 medical director's written order or that of **【his】** the director's  
37 physician designee which explains the rationale for **【such】** the  
38 action. The written order may be entered only after the medical  
39 director or **【his】** physician designee has personally seen the patient  
40 **【concerned】**, and evaluated **【whatever】** the episode or situation **【is**  
41 **said to require】** causing the need for restraint or isolation.  
42 Emergency use of restraints or isolation shall be for no more than  
43 **【1】**one hour, by which time the medical director or **【his】** physician  
44 designee shall have been consulted and shall have entered an  
45 appropriate written order **【in writing】**. **【Such】** The written order  
46 shall be effective for no more than 24 hours and shall be renewed if

1 restraint and isolation are continued. While in restraint or isolation,  
2 the patient must be bathed every 12 hours and checked by an  
3 attendant every **[2]** two hours **[with a notation in writing of such**  
4 **checks placed]** , which actions shall be noted in the patient's  
5 treatment record along with the order for restraint or isolation.

6 (4) To be free from corporal punishment.

7 e. Each patient receiving treatment pursuant to this Title, shall  
8 have the following rights, a list of which shall be prominently  
9 posted in all facilities providing **[such]** these services and  
10 otherwise brought to **[his]** the patient's attention by **[such]**  
11 additional means as the commissioner may designate:

12 (1) To privacy and dignity.

13 (2) To the least restrictive conditions necessary to achieve the  
14 purposes of treatment.

15 (3) To wear **[his]** the patient's own clothes; to keep and use  
16 **[his]** personal possessions including **[his]** toilet articles; and to  
17 keep and be allowed to spend a reasonable sum of **[his own]** money  
18 for canteen expenses and small purchases.

19 (4) To have access to individual storage space for **[his]** private  
20 use.

21 (5) To see visitors each day.

22 (6) To have reasonable access to and use of telephones, both to  
23 make and receive confidential calls.

24 (7) To have ready access to letter writing materials, including  
25 stamps, and to mail and receive unopened correspondence.

26 (8) To regular physical exercise several times a week. It shall be  
27 the duty of the hospital to provide facilities and equipment for  
28 **[such]** the exercise.

29 (9) To be outdoors at regular and frequent intervals, in the  
30 absence of medical considerations.

31 (10) To suitable opportunities for interaction with members of  
32 the opposite sex, with adequate supervision.

33 (11) To practice the patient's religion of **[his]** choice or abstain  
34 from religious practices. Provisions for **[such]** worship shall be  
35 made available to each person on a nondiscriminatory basis.

36 (12) To receive prompt and adequate medical treatment for any  
37 physical ailment.

38 f. Rights designated under subsection d. of this section may not  
39 be denied under any circumstances.

40 g. (1) A patient's rights designated under subsection e. of this  
41 section may be denied for good cause **[in any instance in which]**  
42 when the director of the patient's treatment program **[in which the**  
43 **patient is receiving treatment]** feels it is imperative to **[deny any of**  
44 **these rights]** do so; provided, however, under no circumstances  
45 shall a patient's right to communicate with **[his]** the patient's  
46 attorney, physician, or the courts be restricted. Any **[such]** denial



1 of a patient's rights shall take effect only after a written notice of  
2 the denial has been filed in the patient's treatment record **【and shall**  
3 **include】** , including an explanation of the reason for the denial.

4 (2) A denial of rights shall be effective for a period not to exceed  
5 30 days and shall be renewed for additional 30-day periods only by  
6 a written statement entered by the director of the program in the  
7 patient's treatment record **【which indicates】** indicating the detailed  
8 reason for **【such】** renewal of the denial.

9 (3) In each instance of a denial or a renewal, the patient, **【his】**  
10 the patient's attorney, **【and his】** the patient's guardian, if the patient  
11 has been adjudicated **【incompetent】** incapacitated, and the  
12 department shall be given written notice of the denial or renewal  
13 and the reason **【therefor】**.

14 h. **【Any individual】** A patient subject to this Title shall be  
15 entitled to a writ of habeas corpus upon proper petition by  
16 **【himself】** the patient, **【by】** a relative, or a friend to any court of  
17 competent jurisdiction in the county in which **【he】** the patient is  
18 detained and shall further be entitled to enforce any of the rights  
19 herein stated by civil action or other remedies otherwise available  
20 by common law or statute.

21 (cf: P.L.1975, c.85, s.2)

22

23 80. Section 14 of P.L.1965, c.59 (C.30:4-25.2) is amended to  
24 read as follows:

25 14. Application for determination of eligibility for functional  
26 services for a person under the age of 21 years who is believed to  
27 have a developmental disability may be made to the commissioner  
28 by:

29 1. **【his】** the person's parent or guardian;

30 2. a child-caring agency, hospital, clinic, or other appropriate  
31 agency, public or private, or by a physician having care of the  
32 minor, provided the written consent of the parent or guardian or the  
33 Division of Youth and Family Services, under its care and custody  
34 program, has been obtained; or

35 3. a Superior Court, Chancery Division, Family Part having  
36 jurisdiction over the minor.

37 Application for determination of eligibility for any person over  
38 18 years of age for functional services may be made by:

39 a. a person with a developmental disability over 18 years of age  
40 on **【his】** the person's own behalf;

41 b. the guardian of the person of an adjudicated **【mentally**  
42 **incompetent】** incapacitated adult; or

43 c. any court of competent jurisdiction in which the issue of  
44 mental deficiency may have arisen and which finds that it is in the  
45 interest of the person with an alleged mental deficiency to

1 determine such eligibility.  
2 (cf: P.L.2010, c.50, s.33)

3

4 81. Section 1 of 1991, c.233 (C.30:4-27.11a.) is amended to read  
5 as follows:

6 1. The Legislature finds and declares that:

7 a. It is of paramount public interest to ensure the rights of all  
8 patients in inpatient psychiatric facilities, including those persons  
9 being assessed or receiving treatment on an involuntary basis in  
10 screening services and short-term care facilities as defined in  
11 section 2 of P.L.1987, c.116 (C.30:4-27.2);

12 b. The rights set forth in section 10 of P.L.1965, c.59 (C.30:4-  
13 24.2) apply to any person who has been involuntarily committed to  
14 a State or county psychiatric hospital, a psychiatric unit of a county  
15 hospital, or a special psychiatric hospital in accordance with the  
16 laws of this State;

17 c. Because involuntary assessment and treatment in a screening  
18 service and involuntary commitment to a short-term care facility  
19 involve the deprivation of a patient's liberty, it is necessary to  
20 specify and guarantee by statute the rights to which that patient is  
21 entitled, in a manner similar to that provided for a patient who is  
22 involuntarily committed to a State or county psychiatric hospital, a  
23 psychiatric unit of a county hospital, or a special psychiatric  
24 hospital, while recognizing the administrative, structural, and  
25 staffing features of screening services and short-term care facilities  
26 which are different from State or county psychiatric hospitals,  
27 psychiatric units of county hospitals, or special psychiatric  
28 hospitals, as well as recognizing differences between the  
29 administrative, structural, and staffing features of screening services  
30 and short-term care facilities by providing a separate guarantee of  
31 rights for patients in each of these settings; and

32 d. All patients who are receiving assessment or treatment on an  
33 involuntary basis in screening services and short-term care  
34 facilities, as defined in section 2 of P.L.1987, c.116 (C.30:4-27.2),  
35 are entitled to receive professional treatment of the highest standard  
36 and, unless **[incompetent]** the patient is mentally incapacitated, to  
37 participate in their treatment and discharge planning to the fullest  
38 extent possible.

39 (cf: P.L.1991, c.233, s.1)

40

41 82. Section 3 of P.L.1991, c.233 (C.30:4-27.11c) is amended to  
42 read as follows:

43 3. a. Subject to any other provisions of law and the  
44 **[Constitution]** Constitutions of New Jersey and the **[Constitution**  
45 **of the]** United States, a patient shall not be deprived of a civil right  
46 solely by reason of **[his]** receiving assessment or treatment under  
47 the provisions of P.L.1987, c.116 (C.30:4-27.1 et seq.), nor shall the  
48 assessment or treatment modify or vary a legal or civil right of that

1 patient, including, but not limited to, the right to register for and to  
2 vote at elections, or rights relating to the granting, forfeiture, or  
3 denial of a license, permit, privilege, or benefit pursuant to any law.

4 b. A patient shall be entitled to all rights set forth in this act and  
5 shall retain all rights not specifically denied **【him】** under P.L.1987,  
6 c.116 (C.30:4-27.1 et seq.) and P.L.1989, c.170 (C.26:2H-12.7 et  
7 seq.).

8 c. A patient shall not be presumed to be **【incompetent】** mentally  
9 incapacitated solely because **【he has been examined】** of an  
10 examination or **【treated】** treatment for mental illness.

11 d. A patient shall be entitled to a writ of habeas corpus upon  
12 proper petition by **【himself】** the patient, a relative, or a friend to a  
13 court of competent jurisdiction in the county in which **【he】** the  
14 patient is detained and shall further be entitled to enforce, by civil  
15 action or other remedies otherwise available by common law or  
16 statute, any of the rights provided in **【this act】** P.L.1991, c.233  
17 (C.30:4-27.11a et seq.).

18 (cf: P.L.1991, c.233, s.3)

19

20 83. Section 4 of P.L.1991, c.233 (C.30:4-27.11d) is amended to  
21 read as follows:

22 4. a. A patient in a short-term care facility shall have the  
23 following rights, which shall not be denied under any  
24 circumstances. A list of these rights shall be posted in a  
25 conspicuous place in each room designated for use by a patient and  
26 otherwise brought to the patient's attention pursuant to subsection d.  
27 of this section:

28 (1) To be free from unnecessary or excessive medication.  
29 Medication shall not be administered unless at the written or verbal  
30 order of a physician. A verbal order shall be valid only for a period  
31 of 24 hours, after which a written order for the medication shall be  
32 completed. At least weekly, the attending physician shall review  
33 the drug regimen of each patient under **【his】** the physician's care.  
34 Medication shall be administered in accordance with generally  
35 accepted medical standards as part of a treatment program.  
36 Medication shall not be used as punishment, for the convenience of  
37 staff, as a substitute for a treatment program, or in quantities that  
38 interfere with the patient's treatment program.

39 In an emergency in which less restrictive or appropriate  
40 alternatives acceptable to the patient are not available to prevent  
41 imminent danger to the patient or others, medication may be  
42 administered over a patient's objection at the written order of a  
43 physician, which shall be valid for a period of up to 72 hours, in  
44 order to lessen the danger.

45 A patient's right to refuse medication when imminent danger to  
46 the patient or others is not present may be overridden by a written  
47 policy which has been adopted by the short-term care facility to

1 protect the patient's right to exercise informed consent to the  
2 administration of medication. The written policy shall, at a  
3 minimum, provide for appropriate procedures that ensure notice to  
4 the patient of the decision by the attending physician or other  
5 designated physician to administer medication, and the right to  
6 question the physician about **【his】** the physician's decision to  
7 administer medication and to provide information to the physician  
8 regarding that decision. The written policy shall also provide for  
9 review of the patient's decision to object to the administration of  
10 medication by a psychiatrist who is not directly involved in the  
11 patient's treatment. The psychiatrist shall not override the patient's  
12 decision to object to the administration of medication unless the  
13 psychiatrist determines that: the patient is incapable, without  
14 medication, of participating in a treatment plan that will provide a  
15 realistic opportunity of improving **【his】** the patient's condition; or,  
16 although it is possible to devise a treatment plan that will provide a  
17 realistic opportunity of improving the patient's condition without  
18 medication, a treatment plan which includes medication would  
19 probably improve the patient's condition within a significantly  
20 shorter time period, or there is a significant possibility that, without  
21 medication, the patient will harm himself or others before  
22 improvement of **【his】** the patient's condition is realized.

23 An adult who has been voluntarily committed to a short-term  
24 care facility shall have the right to refuse medication.

25 (2) Not to be subjected to psychosurgery or sterilization, without  
26 the express and informed, written consent of the patient after  
27 consultation with counsel or interested party of the patient's choice.  
28 A copy of the patient's consent shall be placed in the patient's  
29 treatment record. If the patient has been adjudicated **【incompetent】**  
30 incapacitated, a court of competent jurisdiction shall hold a hearing  
31 to determine the necessity of the procedure. The patient shall be  
32 physically present at the hearing, represented by counsel, and  
33 provided the right and opportunity to be confronted with and to  
34 cross-examine all witnesses alleging the necessity of the procedure.  
35 In these proceedings, the burden of proof shall be on the party  
36 alleging the necessity of the procedure. In the event that a patient  
37 cannot afford counsel, the court shall appoint an attorney not less  
38 than 10 days before the hearing. An attorney so appointed shall be  
39 entitled to a reasonable fee to be determined by the court and paid  
40 by the State.

41 (3) To be free from unnecessary physical restraint and seclusion.  
42 Except for an emergency in which a patient has caused substantial  
43 property damage or has attempted to harm himself or others, or in  
44 which **【his】** the patient's behavior threatens to harm himself or  
45 others, and in which less restrictive means of restraint are not  
46 feasible, a patient may be physically restrained or placed in  
47 seclusion only on an attending physician's written order or that of

1 another designated physician which explains the rationale for that  
2 action. The written order may be given only after the attending  
3 physician or other designated physician has personally seen the  
4 patient, and evaluated the episode or situation that is said to require  
5 restraint or seclusion.

6 In an emergency, the use of restraints or seclusion may be  
7 initiated by a registered professional nurse and shall be for no more  
8 than one hour. Within that hour, the nurse shall consult with the  
9 attending physician or other designated physician and, if continued  
10 restraint or seclusion is determined to be necessary, shall obtain an  
11 order from the attending physician or other designated physician to  
12 continue the use of restraints or seclusion. If an order is given, the  
13 patient shall be reevaluated by the nurse or the attending physician  
14 or other designated physician as to the patient's physical and  
15 psychiatric condition and the need for continuing the restraints or  
16 seclusion at least every two hours until the use of restraints or  
17 seclusion has ended.

18 The patient's attending physician or other designated physician  
19 shall enter a written order approving the continued use of restraints  
20 or seclusion no later than 24 hours after the time that physical  
21 restraint or seclusion began, and only after the physician has  
22 personally seen the patient. A written order by the physician for the  
23 continued use of restraints or seclusion shall be effective for no  
24 more than 24 hours and shall be renewed if restraint and seclusion  
25 are continued. A medical examination of the patient shall be  
26 conducted every 12 hours by a physician.

27 While a patient is in restraints or seclusion, nursing personnel  
28 shall check the patient's hygienic, toileting, food-related, and other  
29 needs every 15 minutes. A notation of these checks shall be placed  
30 in the patient's medical record along with the order for restraints or  
31 seclusion. A patient in restraints shall be permitted to ambulate  
32 every four hours, except when the patient's psychiatric condition  
33 would make a release from restraints dangerous to **【himself】** the  
34 patient or others, and shall be permitted to ambulate at least once  
35 every 12 hours regardless of the patient's psychiatric condition.

36 (4) To be free from any form of punishment.

37 (5) Not to receive electroconvulsive treatment or participate in  
38 experimental research without the express and informed, written  
39 consent of the patient. The patient shall have the right to consult  
40 with counsel or interested party of the patient's choice. A copy of  
41 the patient's consent shall be placed in the patient's treatment  
42 record. If the patient has been adjudicated **【incompetent】**  
43 incapacitated, a court of competent jurisdiction shall hold a hearing  
44 to determine the necessity of the procedure. The patient shall be  
45 physically present at the hearing, represented by counsel, and  
46 provided the right and opportunity to be confronted with and to  
47 cross-examine all witnesses alleging the necessity of the procedure.  
48 In these proceedings, the burden of proof shall be on the party

1 alleging the necessity of the procedure. In the event that a patient  
2 cannot afford counsel, the court shall appoint an attorney not less  
3 than 10 days before the hearing. An attorney so appointed shall be  
4 entitled to a reasonable fee to be determined by the court and paid  
5 by the State.

6 b. A patient receiving treatment in a short-term care facility  
7 shall have the following rights, which may only be denied pursuant  
8 to subsection c. of this section. A list of these rights shall be posted  
9 in a conspicuous place in each room designated for use by a patient  
10 and otherwise brought to the patient's attention pursuant to  
11 subsection d. of this section:

12 (1) To privacy and dignity.

13 (2) To the least restrictive conditions necessary to achieve the  
14 purposes of treatment.

15 (3) To wear **【his】** the patient's own clothes; to have access to  
16 and use **【his】** nondangerous personal possessions including **【his】**  
17 toilet articles; and to have access to and be allowed to spend a  
18 reasonable sum of **【his own】** money for expenses and small  
19 purchases.

20 (4) To have access to individual storage space for **【his】** private  
21 use.

22 (5) To see visitors each day.

23 (6) To have reasonable access to and use of telephones, both to  
24 make and receive confidential calls.

25 (7) To have ready access to letter writing materials, including  
26 stamps, and to mail and receive unopened correspondence.

27 (8) To regular physical exercise or organized physical activities  
28 several times a week.

29 (9) To be outdoors at regular and frequent intervals, in the  
30 absence of medical considerations, commencing two weeks after  
31 admission, except where the physical location of the short-term care  
32 facility precludes outdoor exercise or would render the supervision  
33 of outdoor exercise too onerous for the facility.

34 (10) To suitable opportunities for interaction with members of  
35 the opposite sex, with adequate supervision.

36 (11) To practice the patient's religion of **【his】** choice or abstain  
37 from religious practices. Provisions for worship shall be made  
38 available to each patient on a nondiscriminatory basis.

39 (12) To receive prompt and adequate medical treatment for any  
40 physical ailment.

41 (13) To be provided with a reasonable explanation, in terms and  
42 language appropriate to the patient's condition and ability to  
43 understand, of:

44 (a) the patient's general mental and physical condition;

45 (b) the objectives of the patient's treatment;

46 (c) the nature and significant possible adverse effects of  
47 recommended treatments;

1 (d) the reasons why a particular treatment is considered  
2 appropriate; and

3 (e) the reasons for the denial of any of the patient's rights  
4 pursuant to subsection c. of this section.

5 c. (1) A patient's rights designated under subsection b. of this  
6 section may be denied only for good cause when the attending  
7 physician feels it is imperative to deny any of these rights; except  
8 that, under no circumstances shall a patient's right to communicate  
9 with **【his】** the patient's attorney, physician, or the courts be  
10 restricted. The denial of a patient's rights shall take effect only after  
11 a copy of the written notice of the denial has been filed in the  
12 patient's treatment record and shall include an explanation of the  
13 reason for the denial.

14 (2) A denial of rights shall be effective for a period not to  
15 exceed 10 days and shall be renewed for additional 10-day periods  
16 only by a written statement entered by the attending physician or  
17 other designated physician in the patient's treatment record **【which**  
18 **indicates】** indicating the detailed reason for the renewal of the  
19 denial.

20 (3) In each instance of a denial or a renewal, the patient, **【his】**  
21 the patient's attorney, and **【his】** the patient's guardian, if the patient  
22 has been adjudicated **【incompetent】** incapacitated, shall be given  
23 written notice of the denial or renewal and the reason **【therefor】**.

24 d. A notice of the rights set forth in this section shall be given to  
25 a patient in a short-term care facility upon admission. The notice  
26 shall be **【in writing and】** written in simple understandable language.  
27 It shall be in a language the patient understands and if the patient  
28 cannot read the notice, it shall be read to **【him】** the patient. **【In the**  
29 **case of an】** If a patient is adjudicated **【incompetent patient, this**  
30 **procedure shall be followed for the】** incapacitated, the notice shall  
31 be given to the patient's guardian. Receipt of this notice shall be  
32 acknowledged in writing with a copy placed in the patient's file. If  
33 the patient or guardian refuses to acknowledge receipt of the notice,  
34 the person delivering the notice shall state this in writing, with a  
35 copy placed in the patient's file.

36 (cf: P.L.1991, c.233, s.4)

37

38 84. Section 5 of P.L.1991, c.233 (30:4-27.11e) is amended to  
39 read as follows:

40 5. a. A patient in a screening service shall have the following  
41 rights, which shall apply during the first 24 hours of involuntary  
42 assessment and care provided at a screening service and which shall  
43 not be denied under any circumstances. A list of these rights shall  
44 be posted in a conspicuous place in the screening service and  
45 otherwise brought to the patient's attention pursuant to subsection d.  
46 of this section:

1 (1) To be free from unnecessary or excessive medication.  
2 Medication shall not be administered unless at the order of a  
3 physician. Medication shall be administered in accordance with  
4 generally accepted medical standards as part of a treatment  
5 program. Medication shall not be used as punishment, for the  
6 convenience of staff, as a substitute for a treatment program, or in  
7 quantities that interfere with the patient's treatment program.

8 In an emergency in which less restrictive or appropriate  
9 alternatives acceptable to the patient are not available to prevent  
10 imminent danger to the patient or others, medication may be  
11 administered over a patient's objection at the written order of a  
12 physician, which shall be valid for a period of up to 24 hours, in  
13 order to lessen the danger.

14 (2) Not to be subjected to experimental research, psychosurgery,  
15 or sterilization, without the express and informed, written consent  
16 of the patient. The patient shall have the right to consult with  
17 counsel or interested party of the patient's choice. A copy of the  
18 patient's consent shall be placed in the patient's treatment record.

19 (3) To be free from unnecessary physical restraint and seclusion.  
20 Except for an emergency, in which a patient has caused substantial  
21 property damage or has attempted to harm himself or others, or in  
22 which **his** the patient's behavior threatens to harm himself or  
23 others, and in which less restrictive means of restraint are not  
24 feasible, a patient may be physically restrained or placed in  
25 seclusion only on an attending physician's written order or that of  
26 another designated physician which explains the rationale for that  
27 action. The written order may be given only after the attending  
28 physician or other designated physician has personally seen the  
29 patient, and evaluated the episode or situation that is said to require  
30 restraint or seclusion.

31 In an emergency, the use of restraints or seclusion may be  
32 initiated by a registered professional nurse and shall be for no more  
33 than one hour. Within that hour, the nurse shall consult with the  
34 attending physician or other designated physician and, if continued  
35 restraint or seclusion is determined to be necessary, shall obtain an  
36 order from the physician to continue the use of restraints or  
37 seclusion. If an order is given, the patient shall be reevaluated by  
38 the nurse or the attending physician or other designated physician as  
39 to the patient's physical and psychiatric condition and the need for  
40 continuing the restraints or seclusion at least every two hours until  
41 the use of restraints or seclusion has ended.

42 The patient's attending physician or other designated physician  
43 shall enter a written order approving the continued use of restraints  
44 or seclusion no later than 12 hours after the time that physical  
45 restraint or seclusion began, after the physician has personally seen  
46 the patient. A written order by the physician for the continued use  
47 of restraints or seclusion shall be effective for no more than 24  
48 hours and shall be renewed if restraint and seclusion are continued.



1 A medical examination of the patient shall be conducted every 12  
2 hours by a physician.

3 While a patient is in restraints or seclusion, nursing personnel  
4 shall check the patient's hygienic, toileting, food-related, and other  
5 needs every 15 minutes. A notation of these checks shall be placed  
6 in the patient's medical record along with the order for restraints or  
7 seclusion. A patient in restraints shall be permitted to ambulate  
8 every four hours, except when the patient's psychiatric condition  
9 would make a release from restraints dangerous to **【himself】** the  
10 patient or others, and shall be permitted to ambulate at least once  
11 every 12 hours regardless of the patient's psychiatric condition.

12 (4) To be free from any form of punishment.

13 b. A patient receiving treatment in a screening service shall have  
14 the following rights, which may only be denied pursuant to  
15 subsection c. of this section. A list of these rights shall be posted in  
16 a conspicuous place in the screening service and otherwise brought  
17 to the patient's attention pursuant to subsection d. of this section:

18 (1) To privacy and dignity.

19 (2) To the least restrictive conditions necessary to achieve the  
20 purposes of treatment.

21 (3) To wear **【his】** the patient's own clothes, except as necessary  
22 for medical examination.

23 (4) To see visitors.

24 (5) To have reasonable access to and use of telephones, both to  
25 make and receive confidential calls.

26 (6) To practice the patient's religion of **【his】** choice or abstain  
27 from religious practices.

28 (7) To receive prompt and adequate medical treatment for any  
29 physical ailment.

30 (8) To be provided with a reasonable explanation, in terms and  
31 language appropriate to the patient's condition and ability to  
32 understand, of:

33 (a) the patient's general mental condition, and **【his】** physical  
34 condition if the screening service has conducted a physical  
35 examination of the patient;

36 (b) the objectives of the patient's treatment;

37 (c) the nature and significant possible adverse effects of  
38 recommended treatments;

39 (d) the reasons why a particular treatment is considered  
40 appropriate; and

41 (e) the reasons for the denial of any of the patient's rights  
42 pursuant to subsection c. of this section.

43 (9) To have a discharge plan prepared **【for him】** and to  
44 participate in the preparation of that plan.

45 c. (1) A patient's rights designated under subsection b. of this  
46 section may be denied only for good cause when the attending  
47 physician feels it is imperative to deny any of these rights; except

1 that, under no circumstances shall a patient's right to communicate  
2 with **【his】** the patient's attorney, physician, or the courts be  
3 restricted. The denial of a patient's rights shall take effect only after  
4 a copy of the written notice of the denial has been filed in the  
5 patient's treatment record and shall include an explanation of the  
6 reason for the denial.

7 (2) A denial of rights shall be effective only for the period of  
8 time that the patient is in the screening service.

9 d. A notice of the rights set forth in this section shall be given to  
10 a patient as soon as possible upon admission to the screening  
11 service. The notice shall be **【in writing and】** written in simple  
12 understandable language. It shall be in a language the patient  
13 understands and if the patient cannot read the notice, it shall be read  
14 to **【him】** the patient. **【In the case of an】** If the patient is  
15 adjudicated **【incompetent patient, this procedure shall be followed**  
16 **for】** incapacitated, the notice shall be given to the patient's  
17 guardian. Receipt of this notice shall be acknowledged in writing  
18 with a copy placed in the patient's file. If the patient or guardian  
19 refuses to acknowledge receipt of the notice, the person delivering  
20 the notice shall state this in writing with a copy placed in the  
21 patient's file.

22 (cf: P.L.1991, c.233, s.5)

23

24 85. R.S.30:4-101 is amended to read as follows:

25 30:4-101. **【In】** Married, domestic partnership, or civil union  
26 couples who are residents of a public institution maintained in  
27 whole or in part by the State, or a county, municipality, or  
28 subdivision thereof, **【married couples, inmates of the same**  
29 **institution,】** shall not be **【separated or】** maintained in separate  
30 quarters. This provision shall not apply to institutions for persons  
31 with mental illness or developmental disabilities, or to correctional  
32 institutions or **【to cases】** where the health or mental condition of  
33 the persons concerned warrants separation.

34 (cf: P.L.2010, c.50, s.42)

35

36 86. Section 10 of P.L.1985, c.133 (C.30:4-165.15) is amended to  
37 read as follows:

38 10. a. Whenever the commissioner believes that guardianship is  
39 no longer required or that another person should be appointed to  
40 serve as guardian, **【he】** the commissioner shall apply to the  
41 Superior Court for an order modifying or terminating the letters of  
42 guardianship. Where someone other than the commissioner is  
43 serving as guardian, notice shall be provided to that person.

44 b. At least once every three years, the commissioner shall  
45 review the case of each person who receives functional or other  
46 services and who has a guardian.

1 c. The Public Defender, the **[incompetent]** incapacitated person,  
2 or someone acting **[in his]** on behalf of the incapacitated person  
3 may institute a similar action for judicial review at any time.

4 d. In cases where the commissioner serves as guardian, the  
5 Public Defender shall be given notice of any actions taken pursuant  
6 to subsection a. or b. of this section. The Public Defender shall be  
7 given an opportunity to meet the person subject to review and  
8 inspect the commissioner's records.  
9 (cf: P.L.1994, c.58, s.49)

10

11 87. Section 7 of P.L.1946, c.118 (C.30:4A-7) is amended to read  
12 as follows:

13 7. If the person for whom the diagnosis is sought by any court or  
14 agency of the State, **[or of a]** county, or municipal government,  
15 desiring to utilize the services of the diagnostic center, is not under  
16 confinement or process **[of any nature whatsoever]**, then admission  
17 to the diagnostic center shall be secured upon application to the  
18 Superior Court upon forms to be provided by the Department of  
19 Human Services. The county adjuster shall be the official **[in the**  
20 **county]** charged with the responsibility of assisting with processing  
21 of **[such]** the applications and shall perform functions similar to  
22 those set forth in Title 30**[,]** of the Revised Statutes. In connection  
23 with each **[such]** application, the court shall order a hearing to be  
24 held, which may be in camera at the discretion of the court. At least  
25 **[ten]** 10 days' notice of the time, date, and place of **[such]** the  
26 hearing shall be served upon the person, and if **[he be]** a minor or  
27 **[incompetent]** a person who is incapacitated, upon the parent,  
28 guardian, person standing in loco parentis, or person having custody  
29 and control of **[such]** the minor or **[incompetent]** person who is  
30 incapacitated. At **[such]** the hearing, the court shall determine  
31 whether the services of the diagnostic center shall be made  
32 available to the **[said]** person and may order the person's  
33 confinement **[of such person]** in the center for a period not to  
34 exceed **[ninety]** 90 days **[and shall cause a copy of said order of**  
35 **confinement to accompany the said person]** , which order shall be  
36 provided to the center.

37 (cf: P.1991, c.91, s.324)

38

39 88. Section 17 of P.L.1968, c.413 (C.30:4D-17) is amended to  
40 read as follows:

41 17. (a) Any person who willfully obtains benefits under **[this**  
42 **act]** P.L.1968, c.413 (C.30:4D-1 et seq.) to which **[he]** a person is  
43 not entitled or in a greater amount than that to which **[he]** a person  
44 is entitled and any provider who willfully receives medical  
45 assistance payments to which **[he]** a provider is not entitled or in a  
46 greater amount than that to which **[he]** a provider is entitled is

1 guilty of a crime of the third degree, provided, however, that the  
2 presumption of nonimprisonment set forth in subsection e. of  
3 N.J.S.2C:44-1 for persons who have not previously been convicted  
4 of an offense shall not apply to a person who is convicted under the  
5 provisions of this subsection.

6 (b) Any provider, or any person, firm, partnership, corporation,  
7 or entity, who:

8 (1) Knowingly and willfully makes or causes to be made any  
9 false statement or representation of a material fact in any cost study,  
10 claim form, or any document necessary to apply for or receive any  
11 benefit or payment under **【this act】** P.L.1968, c.413; or

12 (2) At any time knowingly and willfully makes or causes to be  
13 made any false statement, written or oral, of a material fact for use  
14 in determining rights to such benefit or payment under **【this act】**  
15 P.L.1968, c.413; or

16 (3) Conceals or fails to disclose the occurrence of an event  
17 which

18 (i) affects **【his】** a person's initial or continued right to any such  
19 benefit or payment, or

20 (ii) affects the initial or continued right to any such benefit or  
21 payment of any provider or any person, firm, partnership,  
22 corporation, or other entity in whose behalf **【he】** a person has  
23 applied for or is receiving such benefit or payment with an intent to  
24 fraudulently secure benefits or payments not authorized under **【this**  
25 **act】** P.L.1968, c.413 or in a greater amount than that which is  
26 authorized under **【this act】** P.L.1968, c.413; or

27 (4) Knowingly and willfully converts benefits or payments or  
28 any part thereof received for the use and benefit of any provider or  
29 any person, firm, partnership, corporation, or other entity to a use  
30 other than the use and benefit of such provider or such person, firm,  
31 partnership, corporation, or entity; is guilty of a crime of the third  
32 degree, provided, however, that the presumption of  
33 nonimprisonment set forth in subsection e. of N.J.S.2C:44-1 for  
34 persons who have not previously been convicted of an offense shall  
35 not apply to a person who is convicted under the provisions of this  
36 subsection.

37 (c) Any provider, or any person, firm, partnership, corporation,  
38 or entity who solicits, offers, or receives any kickback, rebate, or  
39 bribe in connection with:

40 (1) The furnishing of items or services for which payment is or  
41 may be made in whole or in part under **【this act】** P.L.1968, c.413;  
42 or

43 (2) The furnishing of items or services whose cost is or may be  
44 reported in whole or in part in order to obtain benefits or payments  
45 under **【this act】** P.L.1968, c.413; or

46 (3) The receipt of any benefit or payment under this act, is guilty  
47 of a crime of the third degree, provided, however, that the

1 presumption of nonimprisonment set forth in subsection e. of  
2 N.J.S.2C:44-1 for persons who have not previously been convicted  
3 of an offense shall not apply to a person who is convicted under the  
4 provisions of this subsection.

5 This subsection shall not apply to (A) a discount or other  
6 reduction in price under **[this act] P.L.1968, c.413** if the reduction  
7 in price is properly disclosed and appropriately reflected in the  
8 costs claimed or charges made under **[this act] P.L.1968, c.413**;  
9 and (B) any amount paid by an employer to an employee who has a  
10 bona fide employment relationship with such employer for  
11 employment in the provision of covered items or services.

12 (d) Whoever knowingly and willfully makes or causes to be  
13 made or induces or seeks to induce the making of any false  
14 statement or representation of a material fact with respect to the  
15 conditions or operations of any institution or facility in order that  
16 such institution or facility may qualify either upon initial  
17 certification or recertification as a hospital, skilled nursing facility,  
18 intermediate care facility, or health agency, thereby entitling them  
19 to receive payments under **[this act] P.L.1968, c.413**, shall be  
20 guilty of a crime of the fourth degree.

21 (e) Any person, firm, corporation, partnership, or other legal  
22 entity who violates the provisions of any of the foregoing  
23 subsections of this section or any provisions of section 3 of  
24 P.L.2007, c.265 (C.2A:32C-3), shall, in addition to any other  
25 penalties provided by law, be liable to civil penalties of: (1)  
26 payment of interest on the amount of the excess benefits or  
27 payments at the maximum legal rate in effect on the date the  
28 payment was made to said person, firm, corporation, partnership or  
29 other legal entity for the period from the date upon which payment  
30 was made to the date upon which repayment is made to the State**[.]**  
31 ; (2) payment of an amount not to exceed three-fold the amount of  
32 such excess benefits or payments**[.]** ; and (3) payment in the sum of  
33 not less than and not more than the civil penalty allowed under the  
34 federal False Claims Act (31 U.S.C. s.3729 et seq.), as it may be  
35 adjusted for inflation pursuant to the Federal Civil Penalties  
36 Inflation Adjustment Act of 1990, Pub.L.101-410 for each  
37 excessive claim for assistance, benefits or payments.

38 (f) Any person, firm, corporation, partnership, or other legal  
39 entity, other than an individual recipient of medical services  
40 reimbursable by the Division of Medical Assistance and Health  
41 Services, who, without intent to violate **[this act] P.L.1968, c.413**,  
42 obtains medical assistance or other benefits or payments under **[this**  
43 **act] P.L.1968, c.413** in excess of the amount to which he is entitled,  
44 shall be liable to a civil penalty of payment of interest on the  
45 amount of the excess benefits or payments at the maximum legal  
46 rate in effect on the date the benefit or payment was made to said  
47 person, firm, corporation, partnership, or other legal entity for the

1 period from September 15, 1976 or the date upon which payment  
2 was made, whichever is later, to the date upon which repayment is  
3 made to the State, provided, however, that no such person, firm,  
4 corporation, partnership, or other legal entity shall be liable to such  
5 civil penalty when excess medical assistance or other benefits or  
6 payments under this act are obtained by such person, firm,  
7 corporation, partnership, or other legal entity as a result of error  
8 made by the Division of Medical Assistance and Health Services, as  
9 determined by said division; provided, further, that if preliminary  
10 notification of an overpayment is not given to a provider by the  
11 division within 180 days after completion of the field audit as  
12 defined by regulation, no interest shall accrue during the period  
13 beginning 180 days after completion of the field audit and ending  
14 on the date preliminary notification is given to the provider.

15 (g) All interest and civil penalties provided for in **【this act】**  
16 P.L.1968, c.413 and all medical assistance and other benefits to  
17 which a person, firm, corporation, partnership, or other legal entity  
18 was not entitled shall be recovered in an administrative proceeding  
19 held pursuant to the "Administrative Procedure Act," P.L.1968,  
20 c.410 (C.52:14B-1 et seq.), except that recovery actions against  
21 minors or **【incompetents】** incapacitated persons shall be initiated in  
22 a court of competent jurisdiction.

23 (h) Upon the failure of any person, firm, corporation,  
24 partnership, or other legal entity to comply within 10 days after  
25 service of any order of the director or **【his】** the director's designee  
26 directing payment of any amount found to be due pursuant to  
27 subsection (g) of this section, or at any time prior to any final  
28 agency adjudication not involving a recipient or former recipient of  
29 benefits under **【this act】** P.L.1968, c.413, the director may issue a  
30 certificate to the clerk of the Superior Court that such person, firm,  
31 corporation, partnership, or other legal entity is indebted to the  
32 State for the payment of **【such】** the amount. A copy of such  
33 certificate shall be served upon the person, firm, corporation,  
34 partnership, or other legal entity against whom the order was  
35 entered. Thereupon the clerk shall immediately enter upon **【his】**  
36 the record of docketed judgments the name of the person, firm,  
37 corporation, partnership, or other legal entity so indebted, and of the  
38 State, a designation of the statute under which such amount is found  
39 to be due, the amount due, and the date of the certification. Such  
40 entry shall have the same force and effect as the entry of a docketed  
41 judgment in the Superior Court. Such entry, however, shall be  
42 without prejudice to the right of appeal to the Appellate Division of  
43 the Superior Court from the final order of the director or **【his】** the  
44 director's designee.

45 (i) In order to satisfy any recovery claim asserted against a  
46 provider under this section, whether or not that claim has been the  
47 subject of final agency adjudication, the division or its fiscal agents

1 is authorized to withhold funds otherwise payable under **[this act]**  
2 P.L.1968, c.413 to the provider.

3 (j) The Attorney General may, when requested by the  
4 commissioner or **[his]** the commissioner's agent, apply ex parte to  
5 the Superior Court to compel any party to comply forthwith with a  
6 **[subpena]** subpoena issued under **[this act]** P.L.1968, c.413. Any  
7 party who, having been served with a **[subpena]** subpoena issued  
8 pursuant to the provisions of **[this act]** P.L.1968, c.413, fails either  
9 to attend any hearing, or to appear or be examined, to answer any  
10 question or to produce any books, records, accounts, papers or  
11 documents, shall be liable to a penalty of **[\$500.00]** \$500 for each  
12 such failure, to be recovered in the name of the State in a summary  
13 civil proceeding to be initiated in the Superior Court. The Attorney  
14 General shall prosecute the actions for the recovery of the penalty  
15 prescribed in this section when requested to do so by the  
16 commissioner or **[his]** the commissioner's agent and when, in the  
17 judgment of the Attorney General, the facts and law warrant such  
18 prosecution. Such failure on the part of the party shall be  
19 punishable as contempt of court by the court in the same manner as  
20 like failure is punishable in an action pending in the court when the  
21 matter is brought before the court by motion filed by the Attorney  
22 General and supported by affidavit stating the circumstances.

23 (k) Notwithstanding the provisions of N.J.S.2C:43-3 to the  
24 contrary, but in addition to any other penalty or disposition that may  
25 be imposed by law:

26 (1) a person who violates the provisions of subsection (a), (b), or  
27 (c) of this section shall be liable to a penalty of not less than  
28 \$15,000 and not more than \$25,000 for each violation; and

29 (2) a person who violates the provisions of subsection (d) of this  
30 section shall be liable to a penalty of not less than \$10,000 and not  
31 more than \$25,000 for each violation.

32 (l) A person who violates the provisions of subsection (a), (b),  
33 or (c) of this section under circumstances in which the aggregate  
34 amount obtained or sought to be obtained is \$1,000 or more, who  
35 has previously been convicted of a violation of the provisions of  
36 subsection (a), (b), or (c) of this section within 10 years of the  
37 current violation, under circumstances where the aggregate amount  
38 obtained or sought to be obtained was \$1,000 or more, is guilty of a  
39 crime of the second degree and, in addition to any other penalty or  
40 disposition authorized by law and notwithstanding the provisions of  
41 N.J.S.2C:43-3 to the contrary, shall be liable to a penalty of not less  
42 than \$25,000 and not more than \$150,000 for each such repeat  
43 violation.

44 (cf: P.L.2010, c.30, s.2)

45

46 89. Section 1 of P.L.1952, c.76 (C.30:6B-1) is amended to read  
47 as follows:

1       1. **【Whenever,】** If it is determined in **【any】** a proceeding in  
2 **【any】** a court of competent jurisdiction **【or before a judicial officer,**  
3 **having jurisdiction thereof, under the laws of this State】** for the  
4 commitment of a person alleged to be **【of unsound mind】** mentally  
5 incapacitated or otherwise in need of confinement in a psychiatric  
6 hospital or other institution for **【his】** the person's proper care, **【it is**  
7 **determined after such adjudication of the status of such person as**  
8 **may be required by law that commitment to a hospital for mental**  
9 **disease or other institution】** treatment, or safekeeping, that  
10 commitment is necessary **【for safekeeping or treatment and it**  
11 **appears that such】** and that the person is eligible for care or  
12 treatment by the Department of Veterans **【Administration】** Affairs  
13 or other agency of the United States **【Government, the said court or**  
14 **judicial officer】**, the court may commit the person to the  
15 Department of Veterans Affairs or other agency instead of to a State  
16 institution, upon receipt of a certificate from the Department of  
17 Veterans **【Administration】** Affairs or **【such】** other agency showing  
18 that facilities are available and that **【such】** the person is eligible for  
19 care or treatment therein, **【may,】** subject to the provisions of this  
20 act **【, commit such person to said Veterans Administration or other**  
21 **agency instead of to an institution of this State】**.

22       Upon **【any such】** commitment, **【such person,】** and when  
23 admitted to **【any】** a facility operated by any such agency **【within or**  
24 **without this State】**, the person shall be subject to the rules and  
25 regulations of the Department of Veterans **【Administration】** Affairs  
26 or other agency. The chief officer of **【any】** a facility of the  
27 Department of Veterans **【Administration】** Affairs or institution  
28 operated by **【any】** the other agency **【of the United States】** to which  
29 the person is **【so】** committed shall, with respect to **【such person】**  
30 the retention of the person's custody, transfer, parole, or discharge,  
31 be vested with the same powers as that of the chief officer of a State  
32 institution **【would have】** if **【such】** the person had been committed  
33 to a State institution**【, with respect to the retention of custody,**  
34 **transfer, parole or discharge of such person】**.

35 (cf: P.L.1952, c.76, s.1)

36

37       90. Section 4 of P.L.1952, c.76 (C.30:6B-4) is amended to read  
38 as follows:

39       4. Upon receipt of a certificate of the Department of Veterans  
40 **【Administration】** Affairs or **【such】** other agency of the United  
41 States that facilities are available for the care or treatment of **【any】**  
42 a person **【heretofore】** committed to **【any hospital】** an institution for  
43 the **【insane or other institution for the care or treatment of persons**  
44 **similarly afflicted】** care and treatment of persons who are mentally  
45 incapacitated and that **【such】** the person is eligible for care or



1 treatment, the chief officer of the institution may, subject to the  
2 approval of the Commissioner of **[Institutions and Agencies]**  
3 Human Services or of the court **[or judicial officer]** having  
4 jurisdiction **[of such]** over the person, **[cause the]** transfer **[of**  
5 **such]** the person to the Department of Veterans **[Administration]**  
6 Affairs or other agency **[of the United States]** for care or treatment.

7 **[Any]** A person transferred as provided in this section shall be  
8 deemed **[to be]** committed to the Department of Veterans  
9 **[Administration]** Affairs or other agency **[of the United States]**,  
10 pursuant to the original commitment.

11 (cf: P.L.1957, c.138, s.1)

12

13 91. Section 4 of P.L.1977, c.82 (C.30:6D-4) is amended to read  
14 as follows:

15 4. No **[developmentally disabled]** person with a developmental  
16 disability shall be presumed to be **[incompetent]** incapacitated or  
17 shall be discriminated against or shall be deprived of any  
18 constitutional, civil, or legal right solely by reason of admission to  
19 or residence at a facility or solely by reason of receipt of any  
20 service for **[developmentally disabled]** persons with developmental  
21 disabilities. No such admission, residence, or receipt of services  
22 shall modify or vary any constitutional, civil, or legal right of  
23 **[such]** the person, including, but not necessarily limited to**;** the  
24 right to:

25 a. Register and vote at elections;

26 b. Free exercise of religion;

27 c. Receive and send unopened correspondence and, upon  
28 request, to obtain assistance in the writing and reading of **[such]**  
29 that correspondence;

30 d. Private visitations and private telephone conversations  
31 without prior notice to the facility during **[such]** reasonable hours  
32 as may be established by the facility with parents, guardians,  
33 representatives of guardian services, relatives, friends, physicians,  
34 attorneys, government officials, and any other persons;

35 e. Reasonable opportunities for interaction with members of the  
36 opposite sex;

37 f. Confidential handling of personal and medical records.

38 (cf: P.L.1977, c.82, s 4)

39

40 92. Section 5 of P.L.1977, c.82 (C.30:6D-5) is amended to read  
41 as follows:

42 5. a. No person receiving services for **[the developmentally**  
43 **disabled]** persons with developmental disabilities at any facility  
44 shall:

45 (1) be subjected to any corporal punishment;

1 (2) be administered any medication or chemical restraint, except  
2 upon the written authorization of a physician when necessary and  
3 appropriate as an element of the service being received or as a  
4 treatment of any medical or physical condition in conformity with  
5 accepted standards for **【such】** that treatment. The nature, amount  
6 of, and reasons for the administration of any medication or chemical  
7 restraint shall be promptly recorded in **【such】** the person's medical  
8 record; or

9 (3) be physically or chemically restrained or isolated in any  
10 manner, except in emergency situations for the control of violent,  
11 disturbed, or depressed behavior which may immediately result in  
12 or has resulted in harm to **【such】** the person or other person or in  
13 substantial property damage.

14 The chief administrator of the facility, or **【his】** the chief  
15 administrator's designee, shall be notified immediately upon the  
16 application of any **【such】** restraint or isolation, and thereafter  
17 **【such】** the restraint or isolation shall be continued only upon the  
18 written order of the administrator or designee. **【Such】** The order  
19 shall be effective for not more than 24 hours, and may be renewed  
20 for additional periods of not more than 24 hours each if the  
21 administrator or designee shall determine that **【such】** continued  
22 restraint or isolation is necessary. While in restraint or isolation,  
23 **【such】** the person shall be checked by an attendant every 15  
24 minutes, and bathed every 24 hours. **【Such】** The restraint or  
25 isolation shall be terminated at any time if an attending physician  
26 shall find **【such】** the restraint or isolation to be medically  
27 contraindicated. The nature, duration of, reasons for, and notation  
28 of attendant checks shall be promptly recorded in **【such】** the  
29 person's medical record;

30 (4) be subjected to shock treatment, psychosurgery, sterilization,  
31 or medical behavioral or pharmacological research without the  
32 express and informed consent of **【such】** the person, if **【a**  
33 **competent】** an adult who has mental capacity, or of **【such】** the  
34 person's guardian ad litem specifically appointed by a court for the  
35 matter of consent to these proceedings, if a minor or an  
36 **【incompetent】** adult who lacks mental capacity or a person  
37 administratively determined to **【be mentally deficient】** have a  
38 mental deficiency. **【Such】** The consent shall be made in writing  
39 and shall be placed in **【such】** the person's record.

40 Either the party alleging the necessity of **【such】** the procedure or  
41 **【such】** the person or **【such】** the person's guardian ad litem may  
42 petition a court of competent jurisdiction to hold a hearing to  
43 determine the necessity of **【such】** the procedure at which the client  
44 is physically present, represented by counsel, and provided the right  
45 and opportunity to be confronted with and to cross-examine all  
46 witnesses alleging the necessity of **【such】** the procedure. In **【such】**

1 the proceedings, the burden of proof shall be on the party alleging  
2 the necessity of **【such】** the procedure. In the event that a person  
3 cannot afford counsel, the court shall appoint an attorney not less  
4 than 10 days before the hearing. An attorney so appointed shall be  
5 entitled to a reasonable fee to be determined by the court and paid  
6 by the county from which the person was admitted. Under no  
7 circumstances may a person in treatment be subjected to hazardous  
8 or intrusive experimental research which is not directly related to  
9 the specific goals of **【his】** the person's treatment program.

10 (5) Notwithstanding the provisions of paragraph (4) of this  
11 subsection to the contrary, nothing in this section shall prohibit  
12 consent obtained or research conducted pursuant to the provisions  
13 of P.L.2007, c.316 (C.26:14-1 et seq.) as provided in this paragraph  
14 (5).

15 (a) In addition to meeting the requirements of sections 4 and 5 of  
16 P.L.2007, c.316 (C.26:14-4 and C.26:14-5), medical research  
17 involving persons who are protected by the provisions of this  
18 subsection shall also meet the approval of the Interdisciplinary  
19 Research Committee established herein.

20 (b) The members of the Interdisciplinary Research Committee  
21 shall be appointed by the Assistant Commissioner of the Division of  
22 Developmental Disabilities in the Department of Human Services,  
23 and shall serve at the pleasure of the Assistant Commissioner. The  
24 members shall have diverse backgrounds, represent a variety of  
25 professions, and include at least one self-advocate and one family  
26 member, neither of whom shall be an employee of the department.

27 (c) The committee shall independently determine whether the  
28 criteria set forth in section 3 of P.L.2007, c.316 (C.26:14-3), and  
29 where required, the informed consent provisions of section 4 of  
30 P.L.2007, c.316 (C.26:14-4), have been met. In addition, the  
31 committee may impose such other conditions on approval as it  
32 determines are necessary to protect the health, safety, and autonomy  
33 of the individuals participating in the medical research.

34 (d) Notices of proposals for medical research received by the  
35 committee, and the committee's action on the proposals, shall be  
36 posted on the department's website and forwarded to the New Jersey  
37 Council on Developmental Disabilities, The Elizabeth M. Boggs  
38 Center on Developmental Disabilities, and Disability Rights of New  
39 Jersey.

40 (e) Two years after enactment of P.L.2011, c.182 and every two  
41 years thereafter, the division shall provide to the Legislature,  
42 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), and post on  
43 the division's Internet website, a summary of the research proposals  
44 reviewed by the committee and the actions taken.

45 b. Every **【developmentally disabled】** person with a  
46 developmental disability in residence at any facility shall be  
47 provided with a nutritionally adequate and sufficient diet and shall

1 receive appropriate and sufficient medical and dental care on a  
2 regular basis and whenever otherwise necessary.

3 c. Every **developmentally disabled** person with a  
4 developmental disability between the ages of **5** five and 21,  
5 inclusive, in residence or full-time attendance at any facility shall  
6 be provided a thorough and efficient education suited to **such** the  
7 person's age and abilities.

8 (cf: P.L.2011, c.182, s.1)

9

10 93. R.S.30:9-1 is amended to read as follows:

11 30:9-1. The **boards of chosen freeholders in** counties of the  
12 first class shall appoint a superintendent for each county hospital  
13 and the physicians for the several county hospitals. The **terms**  
14 term of office of **such** appointees, except that of the  
15 superintendents of the county hospitals for the insane, whose terms  
16 of office shall be the physicians shall be two years. The term of  
17 office of the superintendents of the county hospitals shall be as  
18 provided by **section** R.S.30:9-12 **of this title, shall be two**  
19 **years**.

20 (cf: R.S.30:9-1)

21

22 94. Section 1 of P.L.1941, c.37 (C.30:9-3.1) is amended to read  
23 as follows:

24 1. **Boards of chosen freeholders** Counties are empowered to  
25 maintain a commissary or store for the sale of commodities to  
26 patients, patients' visitors, and employees of any county psychiatric  
27 hospital **for the insane** under rules to be adopted by the **board**  
28 county. The cost of establishing the commissary or store may be  
29 defrayed out of **any** funds appropriated for current maintenance.  
30 Any profit **accruing** may be used **by the board** for recreational  
31 entertainment of the patients or **any other** another like purpose.

32 (cf: P.L.1941, c.37, s.1)

33

34 95. R.S.30:9-4 is amended to read as follows:

35 30:9-4. **Wherever in any county in this State a lunatic asylum**  
36 If a psychiatric hospital is owned and maintained by the county, and  
37 it becomes necessary **from time to time** either to enlarge **such**  
38 asylum the hospital by the building of additions or extensions  
39 **thereto**, or to erect additional buildings **or pavilions** for the  
40 accommodation of the **insane** patients, the board of chosen  
41 freeholders or governing body of **any such** the county may **,**  
42 **from time to time**, upon a resolution or ordinance, as appropriate,  
43 to be adopted by the affirmative votes of two-thirds of the  
44 **members of such board** full authorized membership of the board,  
45 build **such** additions, extensions, additional building or buildings,

1 **【pavilion or pavilions】**, and properly fit, furnish, and equip **【the**  
2 **same】** them.

3 (cf: P.L.1940, c.7, s.1)

4

5 96. R.S.30:9-5 is amended to read as follows:

6 30:9-5. **【To】** The county may issue bonds in the corporate name  
7 of the county to meet the expense of erecting new buildings,  
8 additions, or accommodations at a county 【lunatic asylum】  
9 psychiatric hospital, and making repairs to 【such】 or otherwise  
10 properly fitting, furnishing, and equipping the buildings 【,  
11 providing proper furniture or apparatus for lighting, heating or  
12 otherwise fitting up the same, the board of chosen freeholders may  
13 issue bonds in the corporate name of the county】.

14 (cf: P.L.1940, c.7, s.2)

15

16 97. R.S.30:9-6 is amended to read as follows:

17 30:9-6. The board of chosen freeholders or governing body of a  
18 county, by a resolution or ordinance, as appropriate, adopted by the  
19 affirmative vote of two-thirds of **【its members】** the full authorized  
20 membership of the board may consolidate its county psychiatric  
21 hospitals 【for the insane】 in one place on suitable lands owned by  
22 the county and erect, furnish, and maintain suitable hospital  
23 buildings thereon. County bonds for **【such】** this purpose may be  
24 issued to an amount not exceeding six-tenths of one per cent of the  
25 ratables of the county.

26 (cf: R.S.30:9-6)

27

28 98. R.S.30:9-7 is amended to read as follows:

29 30:9-7. **【Whenever】** If county psychiatric hospitals 【for the  
30 insane shall be】 are consolidated as 【authorized】 provided by  
31 **【section】** R.S.30:9-6 【of this title】, the **【board of chosen**  
32 **freeholders of such】** county may sell **【any】** its lands and buildings  
33 **【owned by such county and used for the purposes of】** used for a  
34 psychiatric hospital 【for the insane which are located in a part of  
35 the county remote from the site of the hospital buildings so  
36 consolidated, and which】 that are 【rendered】 unnecessary 【to be  
37 used】 for 【such】 hospital purposes, and the sale and conveyance of  
38 **【such】** the lands **【by such board】** shall vest in the purchaser title in  
39 fee to the premises so sold. The proceeds of **【such】** the sale shall  
40 be applied **【by such board】** to the sinking funds of **【such】** the  
41 county or to the redemption of county bonds, and not otherwise.

42 (cf: R.S.30:9-7)

43

44 99. R.S.30:9-8 is amended to read as follows:

45 30:9-8. **【Whenever in any county of this state】** If the board of  
46 chosen freeholders or the governing body of the county 【thereof

1 shall determine] determines, by a resolution [which shall receive]  
2 or ordinance, as appropriate, adopted by the affirmative votes of at  
3 least two-thirds of [all its members] the full authorized  
4 membership of the board, that [any] a county psychiatric hospital  
5 [for the insane] under its management and control is unsuitably  
6 located, and that it is expedient and desirable that the location  
7 thereof should be changed to some other place in its county, [such  
8 board] the county may make [such] the change.

9 (cf: R.S.30:9-8)

10

11 100. R.S.30:9-9 is amended to read as follows:

12 30:9-9. If [, in the judgment of a board of chosen freeholders]  
13 the county desiring to change the location of a county psychiatric  
14 hospital [for the insane] under authority of [section] R.S.30:9-8  
15 [of this title,] determines there is no suitable location [within its  
16 county] at which [such] the hospital might be relocated, and [such  
17 board] desires to locate the hospital in [some other] another county  
18 of this [state] State, it may do so by entering into an agreement  
19 with the [board of chosen freeholders of such] other county, either  
20 to [jointly] build and maintain [such] the hospital jointly, or [that  
21 the board of one county may] to build and maintain the [same]  
22 hospital by one county with the right in the other [board] county to  
23 commit its patients therein, at a sum per week per patient to be  
24 agreed upon.

25 If both [of such boards] counties agree to [jointly] build and  
26 maintain [such] the hospital jointly, they shall [jointly agree]  
27 concur upon the site [thereof], appoint an architect, and approve  
28 [of] plans and specifications, and do and perform [every other  
29 necessary act and thing] everything necessary for [the] completion  
30 of the work [herein] authorized and the maintenance [of the same  
31 after completion] thereafter, including [the] employment of  
32 physicians and other necessary employees [in and about the  
33 institution].

34 If by [the] their agreement [between such boards one board is to  
35 build and maintain such] one county builds and maintains the  
36 hospital, that [board] county shall select the site [therefor],  
37 appoint the architect, and approve [of] the plans and specifications,  
38 and do and perform [every other necessary act and thing]  
39 everything necessary for [the] completion of the work [herein]  
40 authorized, and the maintenance [of the same after completion]  
41 thereafter, including [the] employment of physicians and other  
42 necessary employees [in and about the institution].

43 If [any board concludes] a county decides to change the location  
44 of its hospital, [as aforesaid, the joint boards if they agree to

1 undertake the work, or the single board, if it is to do the work alone,  
2 either within or without its county,] one or more counties  
3 depending upon their agreement shall have full power and authority  
4 to acquire lands within or without the county by gift, devise,  
5 purchase, or condemnation, [and] to erect suitable buildings  
6 [thereon], and to fit, furnish, and equip the [same] buildings, lay  
7 out the grounds, make provision for [a water supply] utilities and  
8 [railroad] mass transit connections, and do and perform [such other  
9 things as may be] whatever is necessary or [proper to be done in  
10 order] appropriate to establish a modern psychiatric hospital [for  
11 the insane].

12 The [moneys wherewith] funds to acquire [such] the lands,  
13 erect [such] the buildings, and [to do and] perform [all] the work  
14 [and things], including the purchase of materials and fittings,  
15 furnishings, and equipment [herein] authorized, except [that which  
16 might consist in] for maintenance only, shall be raised [and  
17 obtained by the board of chosen freeholders of the county if one  
18 only undertakes the doing of the work, or the boards of chosen  
19 freeholders of the two counties undertaking the doing of the work]  
20 by one or more counties doing the work, each to the extent of its  
21 share, by the issue and sale of bonds [therefor and in the manner  
22 and by the methods prescribed by chapter 1 of the title  
23 Municipalities and Counties (s. 40:1-1 et seq.), and shall be] paid  
24 [out] by the county treasurer or treasurers, [as the case may be on  
25 the order of the board of chosen freeholders, as the case may be] in  
26 accordance with the counties' agreement.

27 (cf: R.S.30:9-9)

28

29 101. R.S.30:9-11 is amended to read as follows:

30 30:9-11. [Where any work is to be done] If the cost of work  
31 performed and materials [to be] furnished in the [erection and]  
32 construction, fitting, furnishing, and equipping of [such buildings  
33 or in the fitting, furnishing and equipping of the same,] county  
34 psychiatric hospitals, or [in and about] laying out the grounds, as  
35 provided by [section] R.S.30:9-9 [of this title, where the cost  
36 thereof shall exceed the sum of one thousand dollars] , exceeds  
37 \$1,000, the [same] work shall be [done] performed and materials  
38 furnished on a contract [to be] awarded to the lowest responsible  
39 bidder who shall furnish satisfactory security to the [board or  
40 boards] county or counties undertaking [such] the work, on bids  
41 duly advertised [for] in the county or counties [engaged in the  
42 work, and also where the]. If buildings are to be [erected]  
43 constructed, the advertisement shall be published for at least two  
44 weeks, once in each week; and if joint counties undertake the work  
45 [be undertaken by joint boards], they shall appoint a committee to

1 advertise **【for】** and receive **【such】** the bids**【,** which committee  
2 shall**】** and to report the bids to **【such boards】** their governing  
3 bodies at their next meetings.

4 (cf: R.S.30:9-11)

5

6 102. R.S.30:9-12 is amended to read as follows:

7 30:9-12. **【The board of chosen freeholders in counties】** Counties  
8 of the first class, in appointing superintendents for the county  
9 psychiatric hospitals **【for the insane】**, may designate and prescribe  
10 the terms of office of **【such】** the superintendents, which shall not  
11 **【be for a longer time than】** exceed five years.

12 (cf: R.S.30:9-12)

13

14 103. Section 6 of P.L.1976, c.120 (C.30:13-6) is amended to  
15 read as follows:

16 6. **【Any】** A nursing home resident may arrange for the resident's  
17 own discharge **【himself】** from a nursing home upon presentation of  
18 a written release and, if the resident is **【an】** adjudicated **【mental**  
19 **incompetent】** incapacitated, upon the written consent of **【his】** the  
20 resident's guardian. In **【such】** this case, the nursing home is free  
21 from any responsibility for the resident upon **【his】** the resident's  
22 release. When a nursing home wishes to transfer or discharge on a  
23 nonemergency basis a **【competent or an adjudicated mental**  
24 **incompetent】** resident **【on a nonemergency basis】** who has mental  
25 capacity or a resident who is adjudicated incapacitated, **【it】** the  
26 nursing home may do so for medical reasons or for **【his】** the  
27 person's welfare or for that of other residents upon receiving a  
28 written order from the attending physician, or for nonpayment **【of**  
29 **his stay】**, except as prohibited by Title XVIII or Title XIX of the  
30 Social Security Act, as amended, and **【such】** the action shall be  
31 recorded in the resident's medical record. When a transfer or  
32 discharge on a nonemergency basis of a resident is requested by a  
33 nursing home, the resident or, in the case of **【an】** a resident who is  
34 adjudicated **【mental incompetent resident】** incapacitated, the  
35 guardian, shall be given at least 30 days advance notice of **【such】**  
36 the transfer or discharge.

37 (cf: P.L.1976, c.120, s. 6)

38

39 104. R.S.34:15-27 is amended to read as follows:

40 34:15-27. An agreement for compensation may be modified at  
41 any time by a subsequent agreement. **【A】** Upon the application of  
42 any party, a formal award, determination **【and rule for】**, judgment,  
43 or order approving settlement may be reviewed within **【2】** two  
44 years from the date when the injured person last received a payment  
45 **【upon the application of either party】** on the ground that the



1 incapacity of the injured employee has subsequently increased. If  
2 **any** a party entitled to a review under this section shall become  
3 **insane** mentally incapacitated within the **aforsaid 2-year** two-  
4 year period, **his insanity** the mental incapacity shall constitute  
5 grounds for tolling the unexpired balance of the **2-year** two-year  
6 period, which shall only begin to run again after **his coming to or**  
7 **being of same mind** the party returns to mental capacity. An  
8 award, determination **and rule for**, judgment, or order approving  
9 settlement may be reviewed at any time on the ground that the  
10 disability has diminished. In such case, the provisions of **section**  
11 R.S.34:15-19 **of this Title** with reference to medical examination  
12 shall apply.

13 (cf: P.L.1975, c. 319, s.1)

14

15 105. R.S.37:1-6 is amended to read as follows:

16 37:1-6. A marriage or civil union license shall not be issued to a  
17 minor under the age of 18 years, unless the parents or guardian of  
18 the minor, if **there be** any, first certify **under their hands and**  
19 **seals**, in the presence of two reputable witnesses, **their** consent  
20 thereto, which **consent** shall be delivered to the licensing officer  
21 issuing the license. **If the parents, or either of them, or guardian of**  
22 **any such minor shall be of unsound mind, the consent of such**  
23 **parent or guardian to the proposed marriage or civil union** Consent  
24 to the proposed marriage or civil union by a parent or guardian who  
25 is mentally incapacitated shall not be required.

26 When a minor is under the age of 16 years, the consent required  
27 by this section must be approved in writing by **any** a judge of the  
28 Superior Court, Chancery Division, Family Part **. Said approval**  
29 **shall be** and filed with the licensing officer.

30 The licensing officer shall transmit to the State registrar all  
31 **such** consents, orders, and approvals **so received by him in the**  
32 **same manner and** subject to the same penalty as in the case of  
33 marriage or civil union certificates **of marriage or civil union and**  
34 **marriage or civil union** or licenses.

35 (cf: P.L.2006, c.103, s.10)

36

37 106. R.S.37:1-9 is amended to read as follows:

38 37:1-9. No marriage license shall be issued when, at the time of  
39 making an application therefor, either applicant is **infected with a**  
40 **venereal disease in a communicable stage, or is** a person currently  
41 adjudicated **mentally incompetent** incapacitated.

42 (cf: P.L.1981, c. 254, s. 1)

43

44 107. Section 3 of P.L.1987, c.291 (C.40:11A-22.2) is amended  
45 to read as follows:

1       3. No person may be appointed as a parking enforcement officer  
2 unless the person:  
3       a. is a resident of this State during the term of appointment;  
4       b. is able to read, write, and speak the English language **【well**  
5 and intelligently**】** proficiently;  
6       c. **【is of sound mind】** has the mental capacity and **【in good**  
7 health**】** physical ability to perform the tasks of parking enforcement  
8 officer;  
9       d. is of good moral character;  
10       e. has not been convicted of any offense involving dishonesty  
11 or which would make **【him】** the person unfit to perform the duties  
12 of **【his】** the office.  
13 (cf: P.L.1987, c.291, s.3)

14  
15       108. R.S.40:65-3 is amended to read as follows:  
16       40:65-3. The notice may be served upon all owners residing in  
17 the municipality, personally, or by leaving the same at their usual  
18 place of residence with a member of the family above the age of  
19 fourteen years. In the case of **【infants】** minors and **【incompetents】**  
20 incapacitated persons, **【such】** the notice shall be served upon their  
21 guardians; when any real estate is held in trust, upon the trustee;  
22 when held by joint tenants, tenants in common or by the entirety,  
23 upon any one such tenant. If the owner of any **【such】** the real  
24 estate is a nonresident of the municipality, the notice may be served  
25 upon **【him】** the owner personally, or upon **【his】** the owner's agent  
26 in charge of the property, or upon the occupant thereof, or mailed to  
27 the nonresident owner at **【his】** the nonresident owner's last known  
28 post-office address.  
29 (cf: R.S.40:65-3)

30  
31       109. Section 3 of P.L.1987, c.260 (C.40A:9-154.9) is amended  
32 to read as follows:  
33       3. No person may be appointed as a parking enforcement officer  
34 unless, at a minimum, the person:  
35       a. Is a resident of this State during the term of appointment;  
36       b. Is able to read, write, and speak the English language **【well**  
37 and intelligently**】** proficiently;  
38       c. **【Is of sound mind】** Has the mental capacity and **【in good**  
39 health**】** physical ability to perform the tasks of parking enforcement  
40 officer;  
41       d. Is of good moral character; and  
42       e. Has not been convicted of any offense involving dishonesty  
43 or which would make the person unfit to perform the duties of **【his】**  
44 the office.  
45 (cf: P.L.1987, c.260, s.3)

1 110. Section 4 of P.L.1988, c.130 (C.42:2A-8.2) is amended to  
2 read as follows:

3 42:2A-8.2. Resignation of registered agent. a. The registered  
4 agent of a domestic limited partnership or a foreign limited  
5 partnership authorized to transact business in this State may resign  
6 by complying with the provisions of this section.

7 b. The registered agent, or, in the case of a registered agent who  
8 is deceased or has been **【declared incompetent】** adjudicated  
9 incapacitated by a court of competent jurisdiction, **【his】** the agent's  
10 legal representative, shall serve a notice of resignation by certified  
11 mail, return receipt requested, upon a general partner or general  
12 partners of the limited partnership at the address last known to the  
13 agent, and shall make an affidavit of **【such】** service. If service  
14 cannot be made, the affidavit shall so state, and shall state briefly  
15 why service cannot be made. The affidavit, together with a copy of  
16 notice of resignation, shall be filed in the Office of the Secretary of  
17 State.

18 c. The resignation shall become effective 30 days after the filing  
19 in the office of the Secretary of State of the affidavit of service or  
20 upon the designation by the limited partnership of a new registered  
21 agent pursuant to this act, whichever is earlier. If the limited  
22 partnership fails to designate a new registered agent within the 30  
23 day period, the limited partnership shall thereafter be deemed to  
24 have no registered agent or registered office in this State, until the  
25 limited partnership files a certificate of change of address of  
26 registered office and registered agent indicating the new registered  
27 office and registered agent.

28 d. If any certificate of change replacing a resigned agent is not  
29 filed, the limited partnership shall, after written demand therefor by  
30 the Secretary of State, forfeit to the State a penalty of **【\$200.00】**  
31 \$200 for each year or part thereof until an agent is appointed. The  
32 Secretary of State may issue a certificate to the Clerk of the  
33 Superior Court that the limited partnership is indebted for the  
34 payment of this penalty. This certificate shall be entered by the  
35 Clerk as a judgment docketed in the Superior Court, and shall have  
36 the same form as a docketed judgment.

37 (cf: P.L.1988, c.130, s.41)

38

39 111. Section 30 of P.L.1983, c. 489 (C.42:2A-31) is amended to  
40 read as follow:

41 30. Events of withdrawal of a general partner. Except as  
42 approved by the specific written consent of all partners at the time,  
43 a person ceases to be a general partner of a limited partnership upon  
44 the happening of any of the following events:

45 a. The general partner withdraws from the limited partnership as  
46 provided in section 39 of P.L.1983, c.489 (C.42:2A-40);

- 1       b. The general partner ceases to be a member of the limited  
2 partnership as provided in section 46 of P.L.1983, c.489 (C.42:2A-  
3 47);
- 4       c. The general partner is removed as a general partner in  
5 accordance with the partnership agreement;
- 6       d. Unless otherwise provided in the certificate of limited  
7 partnership, the general partner: (1) makes an assignment for the  
8 benefit of creditors; (2) files a voluntary petition in bankruptcy; (3)  
9 is adjudicated a bankrupt or insolvent; (4) files a petition or answer  
10 seeking for himself any reorganization, arrangement, composition,  
11 readjustment, liquidation, dissolution, or similar relief under any  
12 statute, law, or regulation; (5) files an answer or other pleading  
13 admitting or failing to contest the material allegations of a petition  
14 filed against him in any proceeding set forth in (4) above; or (6)  
15 seeks, consents to, or acquiesces in the appointment of a trustee,  
16 receiver, or liquidator of the general partner or of all or any  
17 substantial part of his properties;
- 18       e. Unless otherwise provided in the certificate of limited  
19 partnership, 120 days after the commencement of any proceeding  
20 against the general partner seeking reorganization, arrangement,  
21 composition, readjustment, liquidation, dissolution, or similar relief  
22 under any statute, law, or regulation, the proceeding has not been  
23 dismissed, or if within 90 days after the appointment without his  
24 consent or acquiescence of a trustee, receiver, or liquidator of the  
25 general partner or of all or any substantial part of his properties, the  
26 appointment is not vacated or stayed, or within 90 days after the  
27 expiration of any **【such】** stay, the appointment is not vacated;
- 28       f. In the case of a general partner who is a natural person **【his】** ,  
29 the partner's death, or the entry by a court of competent jurisdiction  
30 of a judgment adjudicating **【him incompetent】** the partner  
31 incapacitated to manage **【his】** the partner's person or estate;
- 32       g. In the case of a general partner who is acting as a general  
33 partner by virtue of being a trustee of a trust, the termination of the  
34 trust (but not merely the substitution of new trustee);
- 35       h. In the case of a general partner that is a separate partnership,  
36 the dissolution and commencement of winding up of the separate  
37 partnership;
- 38       i. In the case of a general partner that is a corporation, the filing  
39 of a certificate of dissolution, or its equivalent, for the corporation  
40 or the revocation of its charter; or
- 41       j. In the case of an estate, the distribution by the fiduciary of the  
42 estate's entire interest in the partnership.  
43 (cf: P.L.1988, c.130, s.18)  
44
- 45       112. Section 49 of P.L.1983, c.489 (C.42:2A-50) is amended to  
46 read as follows:

1 42:2A-50. Power of personal representative of deceased or  
2 **【incompetent】** incapacitated person; representative or successor of  
3 corporation, trust, or other entity. If a partner who is an individual  
4 dies or a court of competent jurisdiction adjudges **【him】** the partner  
5 to **【be incompetent】** lack the mental capacity to manage **【his】** the  
6 partner's person or **【his】** property, the partner's executor,  
7 administrator, guardian, conservator, or other legal representative  
8 may exercise all the partner's rights for the purpose of settling **【his】**  
9 the partner's estate or administering **【his】** the partner's property,  
10 including any power the partner had to give an assignee the right to  
11 become a limited partner. If a partner is a corporation, trust, or  
12 other entity and is dissolved or terminated, the powers of that  
13 partner may be exercised by its legal representative or successor.  
14 (cf: P.L.1983, c.489, s.49)

15  
16 113. Section 7 of P.L.1993, c.210 (C.42:2B-7) is amended to  
17 read as follows:

18 7. a. The registered agent of a domestic limited liability  
19 company or a foreign limited liability company authorized to  
20 transact business in this State may resign by complying with the  
21 provisions of this section.

22 b. The registered agent of a foreign or domestic limited liability  
23 company may resign and appoint a successor registered agent by  
24 filing a certificate in the office of the Secretary of State, stating that  
25 it resigns and the name and address of the successor registered  
26 agent. There shall be attached to **【such】** the certificate a statement  
27 executed by the affected limited liability company ratifying and  
28 approving **【such】** the change of registered agent. Upon **【such】**  
29 filing, the successor registered agent shall become the registered  
30 agent of each limited liability company which has ratified and  
31 approved the substitution and the successor registered agent's  
32 address, as stated in **【such】** the certificate, shall become the address  
33 of each limited liability company's registered office in this State.  
34 The Secretary of State shall furnish to the successor registered agent  
35 upon request a certified copy of the certificate of resignation. Filing  
36 of the certificate of resignation shall be deemed to be an amendment  
37 of the certificate of formation of the limited liability company  
38 affected thereby and the limited liability company shall not be  
39 required to take any further action with respect thereto, to amend its  
40 certificate of formation under **【this act】** P.L.1993, c.210 (C.42:2B-1  
41 et seq.).

42 c. The registered agent of a limited liability company may resign  
43 without appointing a successor registered agent by complying with  
44 the following provisions:

45 (1) The registered agent, or, in the case of a registered agent who  
46 is deceased or has been **【declared incompetent】** adjudicated  
47 incapacitated by a court of competent jurisdiction, **【his】** the agent's

1 legal representative, shall serve a notice of resignation by certified  
2 mail, return receipt requested, upon the limited liability company at  
3 the address last known to the agent, and shall make an affidavit of  
4 **【such】** service. If service cannot be made, the affidavit shall so  
5 state, and shall state briefly why service cannot be made. The  
6 affidavit, together with a copy of notice of resignation, shall be filed  
7 in the office of the Secretary of State.

8 (2) The resignation shall become effective 30 days after filing  
9 the affidavit of service in the office of the Secretary of State or  
10 upon the designation by the limited liability company of a new  
11 registered agent pursuant to **【this act】** P.L.1993, c.210, whichever  
12 is earlier. If the limited liability company fails to designate a new  
13 registered agent within the 30-day period, the limited liability  
14 company shall thereafter be deemed to have no registered agent or  
15 registered office in this State, until the limited liability company  
16 files a certificate of change of address of registered office and  
17 registered agent indicating the new registered office and registered  
18 agent.

19 (cf: P.L.1997, c.139, s.8.)  
20

21 114. Section 47 of P.L.1993, c.210 (C.42:2B-47) is amended to  
22 read as follows:

23 47. If a member who is an individual dies or a court of  
24 competent jurisdiction adjudges **【him】** the member to **【be**  
25 **incompetent】** lack the mental capacity to manage **【his】** the  
26 member's person or **【his】** property, the member's executor,  
27 administrator, guardian, conservator, or other legal representative  
28 may exercise all of the member's rights for the purpose of settling  
29 **【his】** the member's estate or administering **【his】** the member's  
30 property, including any power under an operating agreement of an  
31 assignee to become a member and the power given to an assignee  
32 under subsection d. of section 46 of P.L.1993, c.210 (C.42:2B-46).  
33 If a member is a corporation, trust, or other entity and is dissolved  
34 or terminated, the powers of that member may, in addition to the  
35 powers given to an assignee under subsection d. of section 46 of  
36 P.L.1993, c.210 (C.42:2B-46), be exercised by its legal  
37 representative or successor.

38 (cf: P.L.1998, c.79, s.11)  
39

40 115. R.S.42:4-13 is amended to read as follows:

41 42:4-13. **【When】** If a member of a partnership **【has been or shall**  
42 **be adjudged a lunatic】** is adjudicated incapacitated, the court may  
43 **【in an action and】** on application of **【any of the other partners】**  
44 another partner or **【such】** other person as the court shall determine  
45 to be entitled to make the application, dissolve the partnership. The  
46 court may proceed in the action in a summary manner or otherwise.

47 (cf: P.L.1953, c.40, s.32)

1 116. R.S.42:4-14 is amended to read as follows:

2 42:4-14. When a partnership is dissolved as provided by  
3 **【section】** R.S.42:4-13 **【of this Title】**, or is otherwise lawfully  
4 dissolved **【by due course of law】**, and a **【member thereof】** partner  
5 has been **【or shall be adjudged a lunatic】** adjudicated incapacitated,  
6 the guardian of **【such lunatic】** the partner who is incapacitated, in  
7 the name and on behalf of **【his ward】** that partner, may **【join and】**  
8 concur with the other **【members of the partnership】** partners or  
9 other persons interested in disposing of **【all】** the partnership  
10 property, **【in such manner and upon such terms as the court may**  
11 **direct】** as directed by the court.

12 (cf: P.L.1953, c.40, s.33)

13

14 117. R.S.42:4-15 is amended to read as follows:

15 42:4-15. The guardian mentioned in **【section】** R.S.42:4-14 **【of**  
16 **this Title】** may make and execute all **【such】** conveyances and do all  
17 things necessary to effectuate the provisions of this article **【as the**  
18 **court may direct. He】** and shall also dispose of all money or  
19 property **【by him】** received for, from, or on account of the  
20 **【lunatic's】** share or interest in the partnership of the partner who is  
21 mentally incapacitated, as the court may direct.

22 (cf: P.L.1953, c.40, s.34)

23

24 118. Section 13 of P.L.2007, c.92 (C.43:15C-13) is amended to  
25 read as follows:

26 13. The disability benefit coverage provided under a group  
27 policy or policies shall provide a monthly income if the participant  
28 becomes totally disabled from occupational or nonoccupational  
29 causes for a period of at least six consecutive months following the  
30 effective date of the coverage. The monthly disability benefit may  
31 be paid by the insurance company so long as the participant remains  
32 disabled up to the **【seventieth】** 70th birthday, provided the  
33 disability commenced prior to the **【sixtieth】** 60th birthday. The  
34 benefit shall terminate when the participant is no longer considered  
35 totally disabled or begins to receive retirement benefits.

36 The participant shall be considered totally disabled if the  
37 participant is unable to perform each duty of the participant's  
38 occupation and is under the regular care of a physician. After the 24  
39 months following the commencement of **【such】** the disability  
40 benefit payments, the participant shall be unable to engage in any  
41 gainful occupation for which the participant is reasonably fitted by  
42 education, training, or experience. Total disability shall not be  
43 considered to exist if the participant is gainfully employed.  
44 Following an agreement with the insurance company and the  
45 policyholder, the participant may continue to receive disability  
46 benefits for a limited time while performing some type of work.

1 During the period of rehabilitation, the monthly benefit shall be the  
2 regular payment less 80% of the participant's earnings from **[such]**  
3 the rehabilitative position.

4 A participant shall be deemed to be in service and covered by the  
5 disability benefit insurance provisions for a period of no more than  
6 six months while on official leave of absence without pay if  
7 satisfactory evidence is presented to the Division of Pensions and  
8 Benefits that **[such]** leave of absence without pay is due to illness  
9 and that the participant was not actively engaged in any gainful  
10 occupation during **[such]** the period of leave of absence without  
11 pay.

12 Disability benefit insurance provisions of the group policy or  
13 policies shall not cover disability resulting from or contributed to  
14 by pregnancy, act of war, intentionally self-inflicted injury, or  
15 attempted suicide **[whether or not sane]** regardless of the person's  
16 mental capacity. For purposes of **[such]** the disability benefit  
17 coverage, the participant shall not be considered to be disabled  
18 while the participant is imprisoned or while outside the United  
19 States, its territories or possessions, or Canada.

20 If the participant has recovered from the disability for which the  
21 member had received benefits and again becomes totally disabled  
22 while insured, the later disability shall be regarded as a continuation  
23 of the prior one unless the participant has returned to full-time  
24 covered employment for at least six months. If the later absence is  
25 due to an unrelated cause and the participant had returned to full-  
26 time work, it shall be considered a new disability. The disability  
27 benefit insurance cannot be converted to an individual policy.

28 No participant shall be covered by the disability benefit  
29 provision of the group policy or policies except upon the  
30 completion of one year of full-time continuous employment in a  
31 position eligible for participation in the Defined Contribution  
32 Retirement Program. For a member who is a participant pursuant to  
33 paragraph (5) of subsection a. of section 2 of P.L.2007, c.92  
34 (C.43:15C-2) as amended by section 12 of P.L.2007, c.103 and  
35 section 7 of P.L.2010, c.1, completion of one year of full-time  
36 continuous employment in a position eligible for membership in the  
37 Teachers' Pension and Annuity Fund, Police and Firemen's  
38 Retirement System, State Police Retirement System, or the Public  
39 Employees' Retirement System shall also be considered in  
40 determining if the participant met the requirements of this  
41 paragraph.

42 (cf: P.L.2010, c.1, s.16)

43

44 119. R.S.44:1-1 is amended to read as follows:

45 44:1-1. As used in this chapter:



1 "Almshouse" means a place where the poor are maintained at the  
2 public expense of a municipality or county, which has not  
3 established and does not maintain a welfare-house[;] .

4 "Commissioner" means the [commissioner of institutions and  
5 agencies;] Commissioner of Human Services.

6 "County adjuster" means the official of that designation  
7 authorized to act in the cases of commitment or admission of  
8 [insane] persons who have a mental illness to state or county  
9 psychiatric hospitals [for the insane;] .

10 "May" shall be construed to be permissive[;] .

11 "Municipality" shall not include, in meaning, a county, unless  
12 otherwise indicated by the context, but shall include a city,  
13 borough, township, town, village, or municipality governed by an  
14 improvement commission[;] .

15 "Overseer" means a person who is charged with the  
16 superintendence and relief or removal of the poor within [his] the  
17 overseer's jurisdiction or found in [his] the overseer's  
18 municipality, and means superintendent in all cases where a  
19 superintendent as defined in this section is authorized to act when  
20 there is no overseer[;] .

21 "Permanent or indoor poor" means poor persons who may be  
22 better relieved or maintained and supported under the provisions of  
23 this chapter by commitment to a welfare-house, almshouse, or, with  
24 limitations, in the home[;] .

25 "Poor person" means one who is unable to maintain himself or  
26 those dependent upon him [;] .

27 "Public charge" means a person to whom it is necessary to  
28 furnish proper relief as provided in this chapter[;] .

29 "Settlement of a person" means [his] a person's right under the  
30 provisions of this chapter to relief or maintenance and support in a  
31 municipality, county, or counties[;] .

32 "State board" means the [state board of control of institutions  
33 and agencies;] State Board of Human Services.

34 "Superintendent" means the employee of a welfare board of a  
35 county or district authorized to act for it and under its direction and  
36 to act for overseers where there are none[;] .

37 "Temporary or outdoor poor" means poor persons who can be  
38 relieved temporarily at their domicile or without being maintained  
39 in an almshouse or welfare-house[;] .

40 "Voluntary wards of the county welfare board" means persons  
41 admitted to a county welfare-house on application to the county  
42 welfare board and not supported entirely at public expense[;] .

43 "Welfare board" means the board of one or more counties  
44 authorized to have charge, supervision, and control of a welfare-  
45 house and to supervise through a superintendent such work for or in  
46 relation to the poor as directed or authorized[;] .

1 "Welfare-house" means a place where persons unable to care for  
2 and maintain themselves in whole or in part by reason of age,  
3 infirmity or poverty may be cared for and maintained in whole or in  
4 part at the expense of a county or municipality under the  
5 superintendent of a county welfare board in a county or portion  
6 thereof or districts composed of more than one county or portions  
7 thereof.

8 "District welfare-house" where so mentioned, means one  
9 established and maintained by more than one county or portions  
10 thereof.

11 (cf: R.S.44:1-1)

12

13 120. R.S.44:4-1 is amended to read as follows

14 44:4-1. As used in this chapter:

15 "Almshouse" means a place for the maintenance of the poor at  
16 the public expense of a county or municipality, prior to the  
17 establishment of a welfare-house【;】 .

18 "Commissioner" means the 【commissioner of institutions and  
19 agencies;】 Commissioner of Human Services.

20 "County adjuster" means the official of that designation  
21 authorized to act in the cases of commitment or admission of  
22 【insane】 persons who have a mental illness to State or county  
23 hospitals for the insane【;】 .

24 "County welfare board" means the board of a single county  
25 authorized to have charge, supervision and control of a county  
26 welfare-house and the administration of the settlement and relief of  
27 the poor for such county and to supervise through a director of  
28 welfare such work for or in relation to the poor as directed or  
29 authorized【;】 .

30 "Director of welfare" means an employee of a county welfare  
31 board with authority to act for it and under its direction, and to act  
32 for and in lieu of overseers where there are none, and perform the  
33 functions of and replace the office of overseer【;】 .

34 "May" shall be construed to be permissive【;】 .

35 "Municipality" shall not include, in meaning, a county, unless  
36 otherwise indicated by the context, but shall include any city,  
37 borough, township, town, village or municipality governed by an  
38 improvement commission.

39 "Permanent or indoor poor," as found in this chapter, shall mean  
40 a disabled person who has been diagnosed by a regular practicing  
41 physician as being unemployable due to a mental or physical  
42 condition, providing such condition is in the physician's opinion of  
43 permanent nature, and further providing that the disabled person is  
44 not eligible for any other type of categorical aid.

45 "Poor person" means a permanently disabled person who is  
46 without means of support as defined above.

1 "Public charge" means a person to whom it is necessary to  
2 furnish proper relief as provided in this chapter[;] .

3 "Settlement of a person" means his right under the provisions of  
4 this chapter to relief or maintenance and support in any county or  
5 counties[;] .

6 "State board" means the State Board of [Control of Institutions  
7 and Agencies;] Human Services.

8 "Temporary or outdoor poor" means poor persons who can be  
9 relieved temporarily at their domicile or without being maintained  
10 in an almshouse or welfare-house[;] .

11 "Welfare-house" means a place where the poor are maintained at  
12 the public expense under the superintendence of a county welfare  
13 board in any county.

14 "Disabled person" means any person entitled to relief under this  
15 chapter.

16 (cf: P.L.1947, c.373, s.1)

17

18 121. R.S.44:7-1 is amended to read as follows:

19 44:7-1. As used in this chapter:

20 "Commissioner" means the Commissioner of [the Department  
21 of Institutions and Agencies] Human Services.

22 "State board" means the State Board of [Control of the  
23 Department of Institutions and Agencies] Human Services.

24 "State division" means the bureau of assistance as set up within  
25 the Department of [Institutions and Agencies] Human Services.

26 "Director of old age assistance" means the chief of the State  
27 bureau of assistance.

28 "Director of welfare" means the director of the county welfare  
29 board.

30 "County welfare board" means the boards established within the  
31 several counties for the purposes of administering welfare to the  
32 needy, whether set up under the authority of this chapter or  
33 pursuant to any other laws of this State.

34 "Assistance" means money payments to or on behalf of eligible  
35 persons.

36 "Old age assistance" means assistance to aged needy persons as  
37 provided by this chapter, and, unless otherwise indicated, includes  
38 all programs of assistance for other specified classes of persons  
39 authorized to be administered by or through the county welfare  
40 boards.

41 "County adjuster" means the official of that designation  
42 authorized to act in cases of commitment or admission of [insane]  
43 persons who have a mental illness to State or county hospitals for  
44 the insane.

45 "Federal aid" means grants-in-aid to the State as provided for in  
46 the Federal Social Security Act, approved August 14, 1935, as  
47 amended.

1 "Institution" means any establishment, whether in single or  
2 multiple dwellings, whether public or private, whether incorporated  
3 or unincorporated, whether for profit or nonprofit, operated at the  
4 direction of or under the management of an individual or  
5 individuals, corporation, partnership, society, or association, which  
6 furnishes food and shelter for 4 or more persons unrelated to the  
7 proprietor and which provides medical or nursing service or any  
8 other personal care or service beyond food, shelter, and laundry, to  
9 any 1 or more of such persons.

10 (cf: P.L.1962, c.222, s.9)

11  
12 122. Section 1 of P.L.1964, c.155 (C.44:11-1) is amended to  
13 read as follows:

14 1. As used in **【this act】** P.L.1964, c.155 (C.44:11-1 et seq.):

15 "Court" means the Superior Court in the county whose welfare  
16 board is responsible for making payments of public assistance to or  
17 for the benefit of the recipient or, in cases where a representative  
18 payee has been appointed pursuant to **【this act】** P.L.1964, c.155,  
19 the Superior Court having made such appointment.

20 "Functionally **【incompetent】** incapacitated" means subject to a  
21 mental, physical, or emotional condition which renders the  
22 individual incapable of receiving and utilizing payments of public  
23 assistance in a manner conducive to the health and well-being of  
24 **【himself】** the individual and **【his】** the individual's dependents.

25 "Representative payee" means a person appointed by a court to  
26 act for a recipient to the extent of receiving and administering  
27 payments of public assistance.

28 "Public assistance" means "old age assistance" and "disability  
29 assistance" as authorized by Revised Statutes, Title 44, chapter 7;  
30 "blind assistance" as authorized by Revised Statutes, Title 30,  
31 chapter 6; "assistance for dependent children" as authorized by  
32 chapter 86, laws of 1959; together with amendments and  
33 supplements to any of the foregoing; and any other program  
34 administered through the county welfare boards, by whatever name  
35 now or hereafter known, which is authorized to provide financial  
36 assistance to needy persons in the form of money payments.

37 "Recipient" means a person who has been found eligible to  
38 receive payments of public assistance.

39 "Welfare board" means the county welfare board or board of  
40 social services responsible for making payments of public  
41 assistance to or for the benefit of the recipient.

42 (cf: P.L.1991, c.91, s.446)

43  
44 123. Section 2 of P.L.1964, c.155 (C.44:11-2) is amended to  
45 read as follows:

46 2. Whenever it appears necessary to appoint a representative  
47 payee for a recipient who is functionally **【incompetent】**

1 incapacitated, a complaint seeking such appointment may be filed  
2 with the court by the welfare board. The complaint shall set forth  
3 the name, age, and place of residence of the recipient; the name and  
4 place of residence of the nearest relative of the recipient, if known;  
5 and that the recipient has been found otherwise eligible to receive a  
6 grant of public assistance.  
7 (cf: P.L.1964, c.155, s.2)

8  
9 124. Section 3 of P.L.1964, c.155 (C.44:11-3) is amended to  
10 read as follows:

11 3. A verified statement by the director of the welfare board, or  
12 **【his】** the director's authorized representative, annexed to the  
13 complaint and setting forth that a review by the **【State Bureau of**  
14 **Assistance】** Division of Family Services in the Department of  
15 Human Services indicates that the recipient is functionally  
16 **【incompetent】** incapacitated, shall be prima facie evidence of the  
17 necessity for the appointment.  
18 (cf: P.L.1964, c.155, s.3)

19  
20 125. Section 4 of P.L.1964, c.155 (C.44:11-4) is amended to  
21 read as follows:

22 4. Upon the filing of a complaint and verified statement as  
23 provided by **【this act】** P.L.1964, c.155 (C.44:11-1 et seq.), the court  
24 shall proceed in a summary manner to hear testimony for the  
25 purpose of determining whether the recipient is functionally  
26 **【incompetent】** incapacitated. The written certification of **【2】** two  
27 physicians who have been in the actual practice of medicine and  
28 surgery in this State for at least **【5】** five years shall be sufficient,  
29 but not required, evidence to establish **【such】** the condition of the  
30 recipient. If the court is satisfied that the recipient is functionally  
31 **【incompetent】** incapacitated, **【such】** the court shall appoint a fit  
32 and proper person as representative payee for **【such】** the recipient.  
33 (cf: P.L.1964, c.155, s.4)

34  
35 126. Section 7 of P.L.1964, c.155 (C.44:11-7) is amended to  
36 read as follows:

37 7. (a) When at a hearing held upon application of the recipient  
38 the court determines from the certification of **【2】** two physicians, or  
39 other acceptable evidence, that the recipient is no longer  
40 functionally **【incompetent】** incapacitated, the court may discharge  
41 the representative payee.

42 (b) Whenever it appears upon application and good cause shown  
43 by the representative payee or the welfare board that **【such】** the  
44 representative payee should be relieved of **【his】** the representative  
45 payee's duties, the court may discharge **【such】** the representative  
46 payee and, if the circumstances still require, appoint **【in his stead**

1 some other fit and proper person] a replacement for the  
2 representative payee.

3 (cf: P.L.1964, c.155, s.7)

4

5 127. Section 6 of P.L.1985, c.256 (C.45:14B-36) is amended to  
6 read as follows:

7 6. A valid authorization for the purpose of [this act] P.L.1985,  
8 c.256 (C.45:14B-30 et seq.) shall:

9 a. Be in writing;

10 b. Specify the nature of the information to be disclosed, the  
11 person authorized to disclose the information, to whom the  
12 information may be disclosed, the specific purposes for which the  
13 information may be used, both at the time of disclosure and at any  
14 time in the future;

15 c. Specify that the patient is aware of the statutory privilege  
16 accorded by section 28 of P.L.1966, c.282 (C.45:14B-28) to  
17 confidential communications between a patient and a licensed  
18 psychologist;

19 d. State that the consent is subject to revocation at any time;

20 e. Be signed by the patient or the person authorizing the  
21 disclosure. If the patient is adjudicated [incompetent]  
22 incapacitated or is deceased, the authorization shall be signed by the  
23 patient's legally authorized representative. When the patient is  
24 more than 14 years of age but has not yet reached [the age of]  
25 majority, the authorization shall be signed by the patient and by the  
26 patient's parent or legal guardian. When the patient is less than 14  
27 years of age, the authorization shall be signed only by the patient's  
28 parent or legal guardian; and

29 f. Contain the date upon which the authorization was signed.

30 (cf: P.L.1985, c.256, s.6)

31

32 128. Section 1 of P.L.1953, c.269 (C.47:3-9) is amended to read  
33 as follows:

34 1. Whenever papers [of the character hereinafter] as described  
35 herein have been on file in the office of [any] the county clerk or  
36 register of deeds and mortgages for more than the number of years  
37 specified, the county clerk or register of deeds and mortgages, [as  
38 the case may be], having charge thereof, may direct [such] the  
39 papers [to] be removed and destroyed [or the records therein  
40 otherwise effectively obliterated], subject, however, to the  
41 limitations imposed herein [in respect to said papers].

42 The following [are the papers which] may be removed and  
43 destroyed [or the records therein effectively obliterated] pursuant  
44 to the provisions of this act:

45 (a) Admissions to the bar, notices of intention to apply for  
46 [such] admissions, after one year;

- 1 (b) Appeals, notices **【of】** from local criminal courts, and other  
2 papers incidental thereto, where **【such】** the appeals were not heard  
3 and disposed of by specific court action, after five years;
- 4 (c) Bills of sale upon condition and other papers in the nature of  
5 conditional bills of sale, after six years; provided their expiration  
6 dates occurred prior to **【said】** the six years; and further provided, if  
7 their expiration dates shall have been extended by the acts of the  
8 parties and notice of **【such】** the acts shall have been given to the  
9 county recording officer, then after six years from their expiration  
10 dates as so extended; and further provided, that bills of sale under  
11 seal, after twenty-two years instead of after six years;
- 12 (d) Bonds given as bail and recognizances in connection with or  
13 in lieu of bail, and discharges of the same, after six years; provided  
14 notations thereof have been entered on the dockets;
- 15 (e) Bonds under orders of filiation, after twenty years;
- 16 (f) Certificates of authority filed by insurance and bonding  
17 companies, after six years;
- 18 (g) Chattel mortgages, after six years; provided their expiration  
19 dates occurred prior to **【said】** the six years; and further provided, if  
20 their expiration dates shall have been extended by the acts of the  
21 parties and notice of **【such】** the acts shall have been given to the  
22 county recording officer, then after six years from their expiration  
23 dates as so extended; and further provided, that chattel mortgages  
24 under seal, after twenty-two years instead of after six years;
- 25 (h) Contracts, plans, and specifications for the construction of  
26 buildings and other structures except for public buildings, after ten  
27 years;
- 28 (i) Convictions of disorderly persons, after five years;
- 29 (j) Costs, bills of costs taxed by the clerk, both civil and  
30 criminal, after twenty years; provided notations thereof have been  
31 entered on the dockets;
- 32 (k) Depositions, which are not within the scope of any  
33 applicable court rule and which do not pertain to any pending court  
34 action or proceeding, after ten years;
- 35 (l) Delinquent municipal tax returns for real and personal  
36 property and discharges therefor, after twenty years;
- 37 (m) Elections returns, certificates of, and all other papers relating  
38 to elections, including primary petitions, returns for primary and  
39 general elections, and statements of candidates' campaign managers  
40 and treasurers, after five years;
- 41 (n) Executions returned by the sheriff, both satisfied and  
42 unsatisfied, after twenty years; provided notations thereof have  
43 been entered on the dockets;
- 44 (o) Extradition papers including applications for writs of habeas  
45 corpus, except judgments thereon, after five years;
- 46 (p) Indictments, accusations, informations, and complaints in  
47 the nature thereof, if nolle prossed, or if the defendant charged

- 1 thereby has been convicted or acquitted, or if the court has  
2 otherwise disposed of the same, after five years;
- 3 (q) Inquests conducted by the coroners, and their reports, and  
4 other papers relating to sudden deaths, after ten years;
- 5 (r) Insolvency proceedings, assignments for the benefit of  
6 creditors, inventories in **【such】** the proceedings, discharges of  
7 insolvents, and other papers relating or incidental to insolvency  
8 proceedings, after twenty years;
- 9 (s) Institutions and agencies, commitments other than in  
10 criminal or **【lunacy】** mental incapacity cases, reports, and other  
11 papers relating to institutions and agencies, after thirty years;
- 12 (t) Judgment transcripts for docketing, after twenty years;  
13 provided notations thereof have been entered on the dockets;
- 14 (u) Judgments, satisfactions and discharges, and releases of  
15 judgments, after twenty years; provided notations thereof have been  
16 entered on the dockets;
- 17 (v) Juries, lists of Grand and petit juries, and other papers  
18 relating to summoning, impaneling, and the charging of **【such】** the  
19 juries, after five years;
- 20 (w) Justices of the peace bonds, dockets, files, and papers, after  
21 twenty years;
- 22 (x) Licenses for hunting, including applications, after two years;
- 23 (y) Lien notices and claims other than mechanics' lien claims,  
24 and other than lien notices or notices in the nature of lien notices  
25 filed by any State, county, or municipal agency, after six years;
- 26 (z) Lists of causes for trial calendars, including notices of trial,  
27 after one year;
- 28 (aa) **【Lunacy proceedings】** Proceedings for commitments to  
29 psychiatric institutions, including medical and other reports relating  
30 thereto, after thirty years;
- 31 (bb) Mechanics' lien and construction lien claims, notices of  
32 intention, notices of unpaid balance and right to file lien, stop  
33 notices, and all papers relating to mechanics' lien and construction  
34 lien claims, other than proceedings and actions in the courts brought  
35 to enforce **【such】** the lien claims, after six years;
- 36 (cc) Notary public certificates and qualifying papers, after five  
37 years;
- 38 (dd) Notices and other papers, authorized or required by law to  
39 be filed but not recorded and not involving title to real or personal  
40 property or to proceedings or actions in any court, after ten years;
- 41 (ee) Oaths of office of persons whose incumbency in office has  
42 ceased, after five years; provided the term of office of **【such】** the  
43 person expired prior to **【said】** the five years;
- 44 (ff) Permits to carry firearms which have expired, including the  
45 applications therefor, after two years;
- 46 (gg) Prison records and reports and papers relating thereto, after  
47 five years;



1 (hh) Probation reports and papers relating thereto, after five  
2 years;

3 (ii) Referees' reports, not forming a part of the record of a  
4 proceeding or action in court, after six years;

5 The [said] several periods of time shall be computed from the  
6 date of the filing of [said] the papers.

7 The county clerk and the register of deeds and mortgages [,  
8 respectively, in his discretion,] may retain on file [in his office]  
9 any of the [said] papers as a part of the permanent records of  
10 [such] the office.

11 (cf: P.L.1953, c.269, s.1)

12

13 129. R.S.48:12-151 is amended to read as follows:

14 48:12-151. All actions accruing from injuries to persons caused  
15 by the wrongful act, neglect, or default of any railroad company  
16 owning or operating any railroad within this State, shall be  
17 commenced and sued within [2] two years next after the cause of  
18 action accrued, and not after, except for injuries to [infants] minors  
19 and [incompetents] incapacitated persons occurring subsequent to  
20 the effective date of [this act] R.S.48:12-151. Actions by an  
21 executor or administrator for injuries causing the death of the  
22 testator or intestate shall be commenced and sued within [2] two  
23 years next after the death, and not after. All actions for injury done  
24 to any property by fire communicated by an engine of any railroad  
25 company of any railroad within this State shall be commenced and  
26 sued within [2] two years after the cause of action accrued, and not  
27 after, except that action for injury occurring after the effective date  
28 of this act shall be commenced within [6] six years after the cause  
29 of action accrued, and not thereafter.

30 (cf: P.L.1962, c.198, s.157)

31

32 130. Section 7 of P.L.1971, c.317 (C.52:4B-7) is amended to  
33 read as follows:

34 7. Hearings on appeals from decisions of the Victims of Crime  
35 Compensation Agency involving issues of victim compensation  
36 shall be conducted by the Victims of Crime Compensation Review  
37 Board in the following manner:

38 a. Upon an application made to the board under the provisions  
39 of the "Criminal Injuries Compensation Act of 1971," P.L.1971,  
40 c.317, the board shall fix a time and place for a hearing on [such]  
41 the application and shall cause notice thereof to be given to the  
42 applicant.

43 b. For the purpose of carrying out the provisions of the  
44 "Criminal Injuries Compensation Act of 1971," P.L.1971, c.317, the  
45 board, or any member thereof, may hold [such] hearings, sit, and  
46 act at [such] times and places, and take [such] testimony as the

1 board or **【such】** any member may deem advisable. Any member of  
2 the board may administer oaths or affirmations to witnesses. The  
3 board shall have full powers of subpoena and compulsion of  
4 attendance of witnesses and production of documents, except that  
5 no subpoena shall be issued except under the signature of a  
6 member of the board, and application to any court for aid in  
7 enforcing **【such】** the subpoena may be made in the name of the  
8 board by any member thereof. Subpoenas shall be served by any  
9 person designated by the board.

10 c. In any case in which the person entitled to make an  
11 application is a child, the application may be made on **【his】** the  
12 person's behalf by **【his】** the person's parent, guardian, or advocate.  
13 In any case in which the person entitled to make an application is  
14 **【mentally incompetent】** incapacitated, the application may be made  
15 on **【his】** the person's behalf by **【his】** the guardian, advocate, or  
16 **【such】** other individual authorized to administer **【his】** the person's  
17 estate.

18 d. Any person having a substantial interest in a proceeding may  
19 appear, produce evidence, and cross-examine witnesses in person or  
20 by **【his】** attorney.

21 e. The board may receive in evidence any statement, document,  
22 information, or matter that may in the opinion of the board  
23 contribute to its functions under the "Criminal Injuries  
24 Compensation Act of 1971," P.L.1971, c.317, but the board shall  
25 not be bound by the rules of evidence.

26 f. If any person has been convicted of any offense with respect  
27 to an act or omission on which a claim under the "Criminal Injuries  
28 Compensation Act of 1971," P.L.1971, c.317 is based, proof of that  
29 conviction shall be taken as conclusive evidence that the offense  
30 has been committed, unless an appeal or any proceeding with regard  
31 thereto is pending.

32 (cf: P.L.2007, c.95, s.8.)

33

34 131. R.S.52:14-13 is amended to read as follows:

35 52:14-13. **【Whenever】** When an officer of this **【state】** State or a  
36 member of a **【state】** State board or commission **【appears to be**  
37 **insane and is committed to an institution for the insane pursuant to**  
38 **law】** is unable to perform the duties of the commission or  
39 appointment because of mental incapacity, the commission or  
40 appointment of **【such】** the officer or member shall become vacated  
41 and void, and a vacancy shall thereupon exist in **【such】** the office,  
42 the same as though the officer or member had resigned or died.

43 (cf: R.S.52:14-13)

44

45 132. Section 1 of P.L.2002, c.118 (C.52:17B-139.7) is amended  
46 to read as follows:

1       1. A licensed pharmacist or other provider of oxygen or an  
2 oxygen delivery system who has supplied oxygen or an oxygen  
3 delivery system to a patient on an order from a licensed health care  
4 provider shall notify the appropriate fire department or company  
5 serving the municipality in which the patient resides of the name  
6 and address of the patient and the existence of the oxygen or  
7 oxygen delivery system at the patient's residence, in accordance  
8 with the provisions of **[this act]** P.L.2002, c.118 (C.52:17B-139.7  
9 et seq.).

10       a. Prior to notification, a pharmacist or other provider of oxygen  
11 or an oxygen delivery system shall inform the patient of the  
12 notification requirements of this act and obtain written informed  
13 consent from the patient for the notification.

14       If the patient is legally **[incompetent]** incapacitated, the  
15 pharmacist or other provider of oxygen or an oxygen delivery  
16 system shall inform an authorized representative of the patient of  
17 the notification requirements of **[this act]** P.L.2002, c.118 and  
18 obtain the written informed consent from the authorized  
19 representative.

20       b. Written informed consent shall consist of a statement, on a  
21 form or in a manner to be determined by the Director of the  
22 Division of Consumer Affairs in the Department of Law and Public  
23 Safety, signed by the patient or by an authorized representative of  
24 the patient, which acknowledges that the pharmacist or other  
25 provider of oxygen or an oxygen delivery system has provided the  
26 patient with information regarding the notification requirements of  
27 **[this act]** P.L.2002, c.118, and that the patient or authorized  
28 representative of the patient consents to the notification.

29       c. If the patient or **[his]** the patient's authorized representative  
30 declines to give **[his]** informed consent for the notification, the  
31 pharmacist or other provider of oxygen or an oxygen delivery  
32 system is required to inform the patient or **[his]** the patient's  
33 authorized representative that the patient is obligated to notify the  
34 appropriate fire department or company of the patient's name and  
35 address and of the existence of oxygen or an oxygen delivery  
36 system at **[his]** the patient's residence.

37       d. If the patient or **[his]** the patient's authorized representative  
38 declines to give **[his]** informed consent, the pharmacist or other  
39 provider of oxygen or an oxygen delivery system is exempt from  
40 the requirement to make the notification and is permitted to supply  
41 the oxygen or oxygen delivery system as directed by the licensed  
42 health care provider's order.

43       e. A copy of the written informed consent shall be attached to  
44 the order for the oxygen or oxygen delivery system or otherwise  
45 included in the patient's record or, if written consent is not given,  
46 the pharmacist or other provider of oxygen or an oxygen delivery

1 system shall note on the order or in the patient's record that  
2 informed consent was not given.

3 f. A pharmacist or other provider of oxygen or an oxygen  
4 delivery system who complies with the provisions of this act shall  
5 be immune from civil liability if the patient fails to notify the  
6 appropriate fire department or company of the patient's name and  
7 address and the existence of oxygen or an oxygen delivery system  
8 at the patient's residence.

9 (cf: P.L.2002, c.118, s.1)

10

11 133. Section 2 of P.L.1985, c.298 (C.52:27G-21) is amended to  
12 read as follows:

13 2. The Legislature finds and declares that private guardianship  
14 for an **incompetent** elderly adult who is incapacitated may not be  
15 feasible where there are no willing and responsible family members  
16 or friends to serve as guardian, that **this act** P.L.1985, c.298  
17 (C.52:27G-20 et seq.) establishes a public guardianship program for  
18 elderly adults for the purpose of furnishing guardianship services to  
19 elderly persons at reduced or no cost when appropriate, and that  
20 **this act** P.L.1985, c.298 intends to promote the general welfare  
21 by establishing a public guardianship system that permits elderly  
22 persons to determinatively participate as fully as possible in all  
23 decisions that affect them.

24 (cf: P.L.1989, c.248, s.1)

25

26 134. R.S.54:5-84 is amended to read as follows:

27 R.S.54:5-84. If a delinquent owner or lienor **shall be, at the**  
28 **time of the** is under the age of 18, a person with an intellectual  
29 disability, or a person who has been adjudicated incapacitated and  
30 in need of a guardianship available under Title 3B of the New  
31 Jersey Statutes, upon expiration of the time **limited** limit for the  
32 redemption of the real estate in which **he is interested, an infant**  
33 **under the age of twenty-one years, or a person with an intellectual**  
34 **disability, or who has been judicially adjudged a person in need of a**  
35 **guardian** that person has an interest, the right to redeem shall not  
36 be barred by service of notice as provided in this article so long as  
37 **such impediment shall continue** the minority, disability, or  
38 incapacity continues, but shall be barred only by an action to  
39 foreclose brought in the Superior Court.

40 (cf: P.L.2010, c.50, s.82)

41

42 135. N.J.S.59:8-8 is amended to read as follows:

43 59:8-8. Time for presentation of claims. A claim relating to a  
44 cause of action for death or for injury or damage to person or to  
45 property shall be presented as provided in this chapter not later than  
46 the **ninetieth** 90th day after accrual of the cause of action. After  
47 the expiration of six months from the date notice of claim is

1 received, the claimant may file suit in an appropriate court of law.  
2 The claimant shall be forever barred from recovering against a  
3 public entity or public employee if:

4 a. **【He】** The claimant failed to file **【his】** the claim with the  
5 public entity within 90 days of accrual of **【his】** the claim except as  
6 otherwise provided in **【section】** N.J.S.59:8-9; or

7 b. Two years have elapsed since the accrual of the claim; or

8 c. The claimant or **【his】** the claimant's authorized representative  
9 entered into a settlement agreement with respect to the claim.

10 Nothing in this section shall prohibit **【an infant or incompetent】**  
11 a minor or a person who is mentally incapacitated from  
12 commencing an action under this act within the time limitations  
13 contained herein, after **【his coming to or being of full age】**  
14 reaching majority or **【sane mind】** returning to mental capacity.  
15 (cf: P.L.1994, c.49, s.4)

16

17 136. The following are repealed:

18 R.S.30:9-1.1;

19 R.S.30:9-2;

20 R.S.30:9-29;

21 R.S.44:5-11; and

22 R.S.44:5-19.

23

24 137. This act shall take effect immediately.

25

26

27

#### STATEMENT

28

29 This bill deletes references to pejorative and archaic language  
30 that is used in the State statutes when referring to persons with  
31 developmental, cognitive, or psychiatric disabilities. Terms such as  
32 "lunatic," "insane," "unsound mind," and "incompetent," when used  
33 pejoratively, have been replaced with more respectful language that  
34 refers to a person's mental capacity. The replacement of the  
35 pejorative terms is not intended to change the meaning of the  
36 various sections of the law amended by the bill.

37 The bill also amends the definition of "incapacitated individual"  
38 in Title 3B of the New Jersey Statutes to replace the term "mental  
39 deficiency" with "intellectual disability"; P.L.2010, c.50, which  
40 eliminated references to "mental retardation" in the State statutes  
41 added a definition for "intellectual disability" in section 13 of  
42 P.L.1965, c.59 (C.30:4-25.1). To maintain consistency with the  
43 definition of "incapacitated individual," the bill uses that term  
44 throughout Title 3B when pejorative language is replaced in that  
45 title.

46 Additionally, consistent with P.L.2010, c.50, the bill uses "first-  
47 person language" when referring to persons with mental incapacity

1 in order to emphasize a person's value, individuality, dignity, and  
2 capabilities. The bill also uses gender-neutral terms in most  
3 instances, updates names of agencies, eliminates anachronistic  
4 language, and includes technical amendments to N.J.S.2A:14-21  
5 and section 3 of P.L.1972, c.81 (C.9:17B-3) to reflect the decision  
6 of the New Jersey Supreme Court in Green v. Auerbach Chevrolet,  
7 127 N.J. 591 (1992), which clarified the age of majority as 18.

8 Further, the bill repeals the following statutes which are no  
9 longer operative:

10 -- R.S.30:9-1.1, concerning the issuance of bonds for county  
11 psychiatric hospitals, which has been superseded by the "Local  
12 Bond Law," P.L.1960, c.169 (40A-2.1 et seq.);

13 -- R.S.30:9-2, concerning judicial appointment of architects,  
14 since judges are no longer involved in public construction projects;

15 -- R.S.30:9-29, concerning aid for county hospitals caring for  
16 persons with communicable diseases, since these types of hospitals  
17 no longer exist;

18 -- R.S.44:5-11, concerning annual appropriations by counties to  
19 maintain patients in nonprofit hospitals and clinics; and

20 -- R.S.44:5-19, concerning annual appropriations by certain  
21 counties to maintain patients in hospitals that are privately owned or  
22 supported by private charity.

23 The bill is based on the "Final Report Relating to Pejorative  
24 Terms Regarding Persons who are Mentally Incapacitated," which  
25 was issued by the New Jersey Law Revision Commission in  
26 September 2011.

# ASSEMBLY HUMAN SERVICES COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 3357**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: NOVEMBER 19, 2012

The Assembly Human Services Committee reports favorably and with committee amendments Assembly Bill No. 3357.

As amended by the committee, this bill deletes references to pejorative and archaic language that is used in the State statutes when referring to persons with developmental, cognitive, or psychiatric disabilities. Terms such as "lunatic," "insane," "unsound mind," and "incompetent," when used pejoratively, have been replaced with more respectful language that refers to a person's mental capacity. The replacement of the pejorative terms is not intended to change the meaning of the various sections of the law amended by the bill.

The bill also amends the definition of "incapacitated individual" in Title 3B of the New Jersey Statutes to replace the term "mental deficiency" with "intellectual disability"; P.L.2010, c.50, which eliminated references to "mental retardation" in the State statutes added a definition for "intellectual disability" in section 13 of P.L.1965, c.59 (C.30:4-25.1). To maintain consistency with the definition of "incapacitated individual," the bill uses that term throughout Title 3B when pejorative language is replaced in that title.

Additionally, consistent with P.L.2010, c.50, the bill uses "person-first" language when referring to persons with mental incapacity in order to emphasize a person's value, individuality, dignity, and capabilities. The bill also uses gender-neutral terms in most instances, updates names of agencies, eliminates anachronistic language, and includes technical amendments to N.J.S.2A:14-21 and section 3 of P.L.1972, c.81 (C.9:17B-3) to reflect the decision of the New Jersey Supreme Court in Green v. Auerbach Chevrolet, 127 N.J. 591 (1992), which clarified the age of majority as 18.

Further, the bill repeals the following statutes which are no longer operative:

-- R.S.30:9-1.1, concerning the issuance of bonds for county psychiatric hospitals, which has been superseded by the "Local Bond Law," P.L.1960, c.169 (40A-2.1 et seq.);

-- R.S.30:9-2, concerning judicial appointment of architects, since judges are no longer involved in public construction projects;

-- R.S.30:9-29, concerning aid for county hospitals caring for persons with communicable diseases, since these types of hospitals no longer exist;

-- R.S.44:5-11, concerning annual appropriations by counties to maintain patients in nonprofit hospitals and clinics; and

-- R.S.44:5-19, concerning annual appropriations by certain counties to maintain patients in hospitals that are privately owned or supported by private charity.

The bill is based on the "Final Report Relating to Pejorative Terms Regarding Persons who are Mentally Incapacitated," which was issued by the New Jersey Law Revision Commission in September 2011.

#### COMMITTEE AMENDMENTS

The committee amendments are technical in nature. They delete two sections of law that were repealed by P.L.2012, c.50 and correct a statutory reference.



# SENATE, No. 2224

## STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED OCTOBER 4, 2012

**Sponsored by:**

**Senator LORETTA WEINBERG**

**District 37 (Bergen)**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**SYNOPSIS**

Changes pejorative terminology referring to mental capacity of individuals.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 12/18/2012)**

1 AN ACT concerning terminology referring to the mental capacity of  
2 individuals and revising various parts of statutory law.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. Section 20 of P.L.1982, c.77 (C.2A:4A-39) is amended to  
8 read as follows:

9 20. a. A juvenile shall have the right, as provided by the Rules  
10 of Court, to be represented by counsel at every critical stage in the  
11 proceeding which, in the opinion of the court may result in the  
12 institutional commitment of the juvenile.

13 b. During every court proceeding in a delinquency case, the  
14 waiving of any right afforded to a juvenile shall be **[done]**  
15 accomplished in the following manner:

16 (1) A juvenile who is found to **[be competent]** have mental  
17 capacity may not waive any rights except in the presence of and  
18 after consultation with counsel, and unless a parent has first been  
19 afforded a reasonable opportunity to consult with the juvenile and  
20 the juvenile's counsel regarding this decision. The parent or  
21 guardian may not waive the rights of a **[competent]** juvenile found  
22 to have mental capacity.

23 (2) Any such waiver shall be executed in writing or recorded.  
24 Before the court may accept a waiver, the court shall question the  
25 juvenile and **[his]** the juvenile's counsel to determine if the  
26 juvenile is knowingly, willingly, and voluntarily waiving **[his]** any  
27 right. If the court finds after questioning the juvenile that the  
28 waiver is not being made voluntarily and intelligently, the waiver  
29 shall be denied.

30 (3) **[An incompetent]** A juvenile who is found to lack mental  
31 capacity may not waive any right. A guardian ad litem shall be  
32 appointed for the juvenile who may waive rights after consultation  
33 with the juvenile and the juvenile's counsel **[for the juvenile, and**  
34 **the juvenile]**.

35 (4) Waivers shall be executed in the language regularly spoken  
36 by the juvenile.

37 (cf: P.L.1982, c.77, s.20)

38  
39 2. N.J.S.2A:14-21 is amended to read as follows:

40 2A:14-21. If **[any]** a person entitled to [any of the actions or  
41 proceedings] commence an action or proceeding specified in  
42 N.J.S.2A:14-1 to 2A:14-8 or N.J.S.2A:14-16 to 2A:14-20 or to a  
43 right or title of entry under N.J.S.2A:14-6 is **[or shall be,]** under the  
44 age of 18 years or a person who has a mental disability that  
45 prevents the person from understanding his legal rights or

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 commencing a legal action at the time ~~of any such~~ the cause of  
2 action or right or title ~~accruing, under the age of 21 years, or~~  
3 ~~insane, such~~ accrues, the person may commence ~~such~~ the action  
4 or make ~~such~~ the entry, within ~~such~~ the time as limited by  
5 those statutes, after ~~his coming to or being of full age or of sane~~  
6 ~~mind~~ reaching majority or having the mental capacity to pursue the  
7 person's lawful rights. Notwithstanding the provisions of this  
8 section to the contrary, an action by or on behalf of a minor that has  
9 accrued for medical malpractice for injuries sustained at birth shall  
10 be commenced prior to the minor's 13th birthday, as provided in  
11 N.J.S.2A:14-2.

12 (cf: P.L.2004, c.17, s.4)

13

14 3. N.J.S.2A:14-32 is amended to read as follows:

15 2A:14-32. If any person having a right or title to real estate  
16 ~~shall,~~ is under the age of 18, or has been adjudicated  
17 incapacitated, or is outside the United States for purposes other than  
18 a military tour of duty at the time ~~such~~ the right or title first  
19 accrued or descended, ~~be either not of sound mind or under the age~~  
20 ~~of 21 years, or without the United States, he, and his heirs,~~ that  
21 person may, notwithstanding the fact that the periods of time  
22 ~~mentioned~~ specified in ~~sections 2A:14-30 and 2A:14-31 of this~~  
23 ~~title~~ N.J.S.2A:14-30 and N.J.S.2A:14-31 have expired, bring ~~his~~  
24 ~~or their~~ an action to enforce ~~his or their~~ the right or title, ~~if~~  
25 ~~such~~ provided the action ~~shall be~~ is commenced within ~~5~~ five  
26 years after ~~his~~ the disability is removed or ~~he comes~~ the person  
27 is physically present within the United States~~, but not thereafter~~.

28 (cf: N.J.S.2A:14-32)

29

30 4. N.J.S.2A:15-1 is amended to read as follows:

31 2A:15-1. Every person ~~of full age and sound mind~~ who has  
32 reached the age of majority pursuant to section 3 of P.L.1972, c.81  
33 (C.9:17B-3) and has the mental capacity may prosecute or defend  
34 any action in any court, in person or through another duly admitted  
35 to the practice of law in this ~~state~~ State.

36 (cf: N.J.S.2A:15-1)

37

38 5. N.J.S.2A:16-7 is amended to read as follows:

39 2A:16-7. When a judgment of the ~~superior court shall be~~  
40 Superior Court is entered for a conveyance, release, or acquittance  
41 of real estate or an interest therein, and the party against whom the  
42 judgment ~~shall be~~ is entered ~~shall not~~ has failed to comply  
43 ~~therewith~~ by the time ~~appointed~~ specified in the judgment, or  
44 within 15 days after entry of the judgment if no time ~~be~~  
45 ~~appointed~~ is specified therein, the judgment shall ~~be considered~~  
46 and taken, in all courts of the state to have the same operation and

1 effect in all courts [, and be available] as if the conveyance,  
2 release, or acquittance had been executed [conformably to] in  
3 conformance with the judgment, [and this] notwithstanding any  
4 disability of [such] the party [by infancy, lunacy, coverture]  
5 because of not having reached the age of majority pursuant to  
6 section 3 of P.L.1972, c.81 (C.9:17B-3), mental incapacity, or  
7 otherwise.

8 (cf: N.J.S.2A:16-7)

9

10 6. N.J.S.2A:16-55 is amended to read as follows:

11 2A:16-55. A person interested as or through an executor,  
12 administrator, trustee, guardian, receiver, assignee for the benefit of  
13 creditors, or other fiduciary, creditor, devisee, legatee, heir, next of  
14 kin, or cestui que trust, in the administration of a trust or the estate  
15 of a decedent, [an infant, lunatic,] a minor, a person who is  
16 mentally incapacitated, a person who is insolvent, or other person,  
17 may have a declaration of rights or legal relations in respect thereto,  
18 to:

19 a. Ascertain any class of creditors, devisees, legatees, heirs,  
20 next of kin, or others; or

21 b. Direct the executor, administrator, trustee, guardian,  
22 receiver, assignee for the benefit of creditors, or other fiduciary to  
23 do or abstain from doing any particular act in his fiduciary capacity;  
24 or

25 c. Determine any question arising in the administration of the  
26 estate, trust, or guardianship, including the construction of wills and  
27 other writings.

28 (cf: N.J.S.2A:16-55)

29

30 7. N.J.S.2A:48-2 is amended to read as follows:

31 2A:48-2. No action under this article shall be instituted unless  
32 commenced within [3] three months after the loss of or injury to  
33 the property. If any person entitled to such an action is, at the time  
34 [of any such cause of] the action [accruing, under the age of 21  
35 years or insane, he] accrues, under the age of 18 or a person who  
36 has a mental disability that prevents the person from understanding  
37 his legal rights or commencing a legal action, the person may  
38 commence [such] the action within [3] three years after [his  
39 coming to or being of full age or of sane mind] reaching majority or  
40 having the mental capacity to pursue the person's lawful rights.

41 (cf: N.J.S.2A:48-2)

42

43 8. N.J.S.2A:62-8 is amended to read as follows:

44 2A:62-8. If a defendant was, either at the time of the entry of a  
45 default against [him] the defendant or at the time of the entry of the  
46 judgment, [an infant] a minor or an [incompetent] incapacitated  
47 person, [he] the defendant, or [his] the defendant's heirs, may,

1 unless **[he]** the defendant was represented in the action by a  
2 guardian or a guardian ad litem **[appearing for him]**, at any time  
3 within **[2]** two years after the termination of **[his]** the defendant's  
4 disability, appear in the action and apply for relief from the  
5 judgment.

6 (cf: N.J.S.2A:62-8)

7

8 9. N.J.S.2A:62-10 is amended to read as follows:

9 2A:62-10 If the title to the lands which is the subject of the  
10 judgment sought to be opened pursuant to **[sections]** N.J.S.2A:62-8  
11 and N.J.S.2A:62-9 **[of this title]**, has, by **[such]** the judgment or in  
12 consequence thereof, been conveyed to a purchaser for value or  
13 mortgaged to a mortgagee for value, the **[same]** title shall not be  
14 affected by either the opening or vacation of the judgment. The  
15 vacation of the judgment shall operate only against the plaintiff  
16 named in the judgment, **[his]** the plaintiff's heirs, executors, and  
17 administrators, to compel compensation to the **[infant]** minor, or  
18 **[incompetent]** incapacitated person to the extent of the value of  
19 **[his]** the plaintiff's interest in the affected **[lands]** real property at  
20 the time the **[same were]** property was so conveyed or mortgaged.

21 (cf: N.J.S.2A:62-10)

22

23 10. N.J.S.2A:62-19 is amended to read as follows:

24 2A:62-19. The final determination and judgment in an action  
25 authorized by **[section]** N.J.S.2A:62-17 **[of this title]** shall fix and  
26 settle the rights of all the parties in **[said]** the estate in remainder in  
27 **[said]** the lands or in **[said]** the remainder interest in **[said]** the  
28 personalty, and **[the same]** shall be binding and conclusive on all  
29 the parties to the action; but if any defendant to **[such]** the suit  
30 **[shall be]** is either at the time of the entry of a default or of  
31 judgment against **[him]** the defendant, **[an infant]** a minor or an  
32 **[incompetent]** incapacitated person, **[such]** the defendant, **[his]**  
33 the defendant's heirs or assigns may, unless **[he]** the defendant was  
34 represented in the action by a guardian or a guardian ad litem  
35 **[appearing for him]**, at any time within **[2]** two years after the  
36 termination of **[such]** the disability, appear in **[such]** the action  
37 and apply for relief from the judgment.

38 (cf: N.J.S.2A-62-19)

39

40 11. N.J.S.2A:67-13 is amended to read as follows:

41 2A:67-13. Except as provided in **[section]** N.J.S.2A:67-14 **[of**  
42 this title, any] , a person **[hereinafter specified]** may prosecute a  
43 writ of habeas corpus, **[according to the provisions of]** in  
44 accordance with this chapter, to inquire into the cause of **[his]** the  
45 person's imprisonment or restraint, if the person is:

- 1 a. ~~Any person~~ committed, detained, confined, or restrained  
2 of ~~his~~ liberty, within this ~~state~~ State, for ~~any~~ a criminal or  
3 supposed criminal matter;
- 4 b. ~~Any person~~ in custody by virtue of civil process issued  
5 out of ~~any~~ a court in this ~~state~~ State;
- 6 c. ~~Any person~~ committed, detained, confined, or restrained  
7 of ~~his~~ liberty, within this ~~state~~ State, under any pretense  
8 ~~whatsoever~~;
- 9 d. ~~Any person~~ in confinement on a charge of a criminal  
10 offense, which is of a bailable nature, for the purpose of ~~putting in~~  
11 ~~such~~ posting bail; or
- 12 e. ~~Any person~~ confined in ~~any hospital for the insane,~~  
13 ~~within this state~~ a psychiatric facility, for the purpose of  
14 determining ~~his sanity or insanity;~~ whether the person is in need  
15 of commitment to treatment.
- 16 f. ~~Any person~~ committed to any institution of this state,  
17 pursuant to law, but not for a fixed period of time, for the purpose  
18 of determining whether the refusal of the chief executive officer  
19 thereof to discharge him therefrom is justified; ~~(Deleted by~~  
20 amendment, P.L. , c. ) (pending before the Legislature as this  
21 bill)
- 22 g. ~~Any person~~ who has left any charitable institution of this  
23 state without having been finally discharged therefrom pursuant to  
24 law and who was committed or admitted to such institution,  
25 pursuant to law, for a permanent or determinable period of time, for  
26 the purpose of determining whether such person should be released  
27 from the commitment; ~~(Deleted by amendment, P.L. , c. )~~  
28 (pending before the Legislature as this bill)
- 29 h. ~~A superintendent or chief executive officer of any~~  
30 ~~charitable institution of this state, for the purpose of obtaining the~~  
31 ~~release from custody or restraint of a person specified in subsection~~  
32 ~~g. of this section and his return to the custody of such institution.]~~  
33 (Deleted by amendment, P.L. , c. ) (pending before the  
34 Legislature as this bill)

35 If sufficient cause appears, the complaint may be filed and the  
36 writ may be prosecuted by another on behalf of the person entitled  
37 to prosecute the writ.

38 (cf: N.J.S.2A:67-13)

39

40 12. N.J.S.2A:67-27 is amended to read as follows:

41 2A:67-27. When the writ is returned, the court may hold the  
42 hearing immediately, unless the validity of a detention on any civil  
43 process, or the ~~sanity or insanity~~ mental capacity of the party is to  
44 be determined, and may, in any case, set a date for the hearing,  
45 which shall be not more than ~~5~~ five days after the return of the  
46 writ unless for good cause additional time is allowed.

1 Notice of the time and place set for a later hearing shall be  
2 served at least **[2] two** days **[prior thereto] before the hearing** or  
3 **[at such] earlier [time]**, as the court may order, by the applicant  
4 upon the defendant, and (a) if the party is in custody on any  
5 criminal matter, upon the county prosecutor of the county  
6 **[wherein] in which** the alleged offense was committed, or (b) if the  
7 party is in custody on any civil process, upon each person having an  
8 interest in continuing the confinement or restraint or upon **[his] the**  
9 **party's** attorney, or (c) if the party is in custody of any **[hospital for**  
10 **the insane] psychiatric facility** or other institution, **[service shall be**  
11 **made] upon** the person or persons **[upon] whose** application **[he]**  
12 was **[committed] the basis for commitment** to the **[hospital]**  
13 **facility** or institution, and upon the medical director or other head  
14 officer of the **[hospital] facility** or institution.  
15 (cf: N.J.S.2A:67-27)  
16

17 13. N.J.S.2A:67-28 is amended to read as follows:

18 2A:67-28. In all cases in which the **[sanity or insanity] mental**  
19 **capacity** of the party is to be determined, the testimony shall be  
20 taken orally and the judge may hear the matter without a jury or  
21 may direct that the action be tried by a jury called from the general  
22 panel or, if **[such a jury is] not** available, by a jury specially  
23 summoned as in other actions.

24 In all other cases, the judge may hear the matter summarily on  
25 the complaint, return and answer to the return, **[if any,] or [may]**  
26 require that testimony be offered orally **[as in other actions]** and,  
27 on its own motion, may summon witnesses and require any person  
28 to produce **[any] documents, records, or other writings.**

29 In **[any] a** proceeding under subsection d. of **[section]**  
30 **N.J.S.2A:67-13 [of this title]**, the judge may take testimony  
31 concerning the truth of **[the affidavit or] affidavits and proofs** upon  
32 which the order for process**[, under which the defendant therein is**  
33 **held,] was made and [said] process issued.**

34 (cf: N.J.S.2A:67-28)  
35

36 14. N.J.S.2A:67-29 is amended to read as follows:

37 2A:67-29. In any proceeding under subsections a., b., or c. of  
38 **[section] N.J.S.2A:67-13 [of this title]**, if no cause is shown for  
39 the imprisonment or restraint or for the continuation thereof, the  
40 judge shall discharge the party from the confinement or restraint  
41 **[under which he is held]**. If the party is not entitled to a discharge  
42 and is not bailed, the **party shall be remanded by the judge [shall**  
43 **remand him]** to the custody or **[place him] placed** under the  
44 restraint from which **[he was] the party was** taken, **[if the person**  
45 **under whose custody he was is legally entitled thereto, and if not so**  
46 **entitled, such party shall be committed by] so long as custody or**

1 restraint is lawful. If the custody or restraint is not lawful, the  
2 judge shall commit the party to the custody of [such other] the  
3 officer or person [who by law is] lawfully entitled thereto.

4 In any proceedings under subsections a., b., c., or d. of [section]  
5 N.J.S.2A:67-13 [of this title], if it appears that the [prisoner]  
6 person is entitled to be bailed, the judge shall [forthwith] discharge  
7 the [prisoner from his imprisonment] person immediately, upon  
8 taking [his] a secured or bonded recognizance in [such sum and  
9 with such surety or sureties] an amount as the judge may approve  
10 for [his] the person's appearance, as the circumstances may  
11 require, and the judge shall then certify the writ with the return and  
12 the recognizance to the court where the appearance is to be made.

13 In any proceeding under subsection d. of [section] N.J.S.2A:67-  
14 13[of this title], the judge shall discharge the party in custody if the  
15 process was improperly or improvidently issued [or should not  
16 have been issued against such party].

17 In any proceeding under subsection e. of [section] N.J.S.2A:67-  
18 13 [of this title], the [inmate] person shall not be discharged  
19 unless [he is] found not to be [sane] dangerous to self or  
20 dangerous to others or to property, either by the judge, if the  
21 hearing is held without a jury, or by [the] unanimous verdict of the  
22 jury.

23 [In any proceeding under subsection f. of section 2A:67-13 of  
24 this title, the inmate shall not be discharged from the commitment  
25 unless the judge finds he is not afflicted as stated in the order of  
26 commitment.

27 In any proceeding under subsection g. or subsection h. of section  
28 2A:67-13 of this title, the judge, in his discretion, may discharge the  
29 person committed from the commitment, or if such person is under  
30 confinement or restraint, release him therefrom and order his return  
31 to the institution to which he was committed or admitted, depending  
32 upon the best interests of such person and his parents, guardians or  
33 custodians.]

34 No person shall be entitled to a discharge because of any  
35 informality or insufficiency in the original arrest or commitment.

36 (cf: N.J.S.2A:67-29)

37

38 15. N.J.S.2A:81-2 is amended to read as follows:

39 2A:81-2. [When 1 party to any] In a civil action [is a lunatic  
40 suing or defending] that is commenced or defended by a guardian  
41 on behalf of a person who is mentally incapacitated or [when 1  
42 party sues or is sued in] by a personal representative [capacity] on  
43 behalf of a decedent, any other party who asserts a claim or an  
44 affirmative defense against [such lunatic] the person who is  
45 mentally incapacitated or against the personal representative, that is  
46 supported by oral testimony of a promise, statement, or act of the



1 **[lunatic while of sound mind] person who is mentally incapacitated**  
2 **before the onset of mental incapacity.** or of the decedent, shall be  
3 required to establish the same by clear and convincing proof.  
4 (cf: P.L.1960, c.52, s.45)

5  
6 16. Section 20 of P.L.1960, c.52 (C.2A:84A-20) is amended to  
7 read as follows:

8 21. Rule 26.

9 (1) General rule. Subject to Rule 37 and except as otherwise  
10 provided by paragraph 2 of this rule communications between  
11 lawyer and his client in the course of that relationship and in  
12 professional confidence, are privileged, and a client has a privilege  
13 (a) to refuse to disclose any such communication, and (b) to prevent  
14 his lawyer from disclosing it, and (c) to prevent any other witness  
15 from disclosing such communication if it came to the knowledge of  
16 such witness (i) in the course of its transmittal between the client  
17 and the lawyer, or (ii) in a manner not reasonably to be anticipated,  
18 or (iii) as a result of a breach of the lawyer-client relationship, or  
19 (iv) in the course of a recognized confidential or privileged  
20 communication between the client and such witness. The privilege  
21 shall be claimed by the lawyer unless otherwise instructed by the  
22 client or his representative; the privilege may be claimed by the  
23 client in person, or if **[incompetent] the client is incapacitated** or  
24 deceased, by his guardian or personal representative. Where a  
25 corporation or association is the client having the privilege and it  
26 has been dissolved, the privilege may be claimed by its successors,  
27 assigns, or trustees in dissolution.

28 (2) Exceptions. Such privilege shall not extend (a) to a  
29 communication in the course of legal service sought or obtained in  
30 aid of the commission of a crime or a fraud, or (b) to a  
31 communication relevant to an issue between parties all of whom  
32 claim through the client, regardless of whether the respective claims  
33 are by testate or intestate succession or by inter vivos transaction, or  
34 (c) to a communication relevant to an issue of breach of duty by the  
35 lawyer to his client, or by the client to his lawyer. Where 2 or more  
36 persons have employed a lawyer to act for them in common, none  
37 of them can assert such privilege as against the others as to  
38 communications with respect to that matter.

39 (3) Definitions. As used in this rule (a) "client" means a person  
40 or corporation or other association that, directly or through an  
41 authorized representative, consults a lawyer or the lawyer's  
42 representative for the purpose of retaining the lawyer or securing  
43 legal service or advice from him in his professional capacity; and  
44 includes **[an incompetent] a person who is incapacitated** whose  
45 guardian so consults the lawyer or the lawyer's representative **[in]**  
46 **on** behalf of the **[incompetent] person who is incapacitated**, (b)  
47 "lawyer" means a person authorized, or reasonably believed by the  
48 client to be authorized to practice law in any State or nation the law

1 of which recognizes a privilege against disclosure of confidential  
2 communications between client and lawyer. A communication  
3 made in the course of the relationship between lawyer and client  
4 shall be presumed to have been made in professional confidence  
5 unless knowingly made within the hearing of some person whose  
6 presence nullified the privilege.

7 (cf: P.L.1960, c. 52, s.20)

8  
9 17. Section 22 of P.L.1960, c.52 (C.2A:84A-22) is amended to  
10 read as follows:

11 22. ule 28. Marital privilege--Confidential communications.

12 No person shall disclose any communication made in confidence  
13 between such person and his or her spouse unless both shall consent  
14 to the disclosure or unless the communication is relevant to an issue  
15 in an action between them or in a criminal action or proceeding in  
16 which either spouse consents to the disclosure, or in a criminal  
17 action or proceeding coming within **[Rule 23(2)]** section 17 of  
18 P.L.1960, c.52 (C.2A:84A-17). When a spouse is **[incompetent]**  
19 incapacitated or deceased, consent to the disclosure may be given  
20 for such spouse by the guardian, executor, or administrator. The  
21 requirement for consent shall not terminate with divorce or  
22 separation. A communication between spouses while living  
23 separate and apart under a divorce from bed and board shall not be a  
24 privileged communication.

25 (cf: P.L.1992, c.142, s.2)

26  
27 18. Section 1 of P.L.1968, c.185 (C.2A:84A-22.1) is amended to  
28 read as follows:

29 1. As used in this act, (a) "patient" means a person who, for the  
30 sole purpose of securing preventive, palliative, or curative  
31 treatment, or a diagnosis preliminary to such treatment, of **[his]** the  
32 patient's physical or mental condition, consults a physician, or  
33 submits to an examination by a physician; (b) "physician" means a  
34 person authorized or reasonably believed by the patient to be  
35 authorized, to practice medicine in the State or jurisdiction in which  
36 the consultation or examination takes place; (c) "holder of the  
37 privilege" means the patient while alive and not under the  
38 guardianship or the guardian of the person of **[an incompetent]** a  
39 patient who is incapacitated, or the personal representative of a  
40 deceased patient; (d) "confidential communication between  
41 physician and patient" means such information transmitted between  
42 physician and patient, including information obtained by an  
43 examination of the patient, as is transmitted in confidence and by a  
44 means which, so far as the patient is aware, discloses the  
45 information to no third persons other than those reasonably  
46 necessary for the transmission of the information or the  
47 accomplishment of the purpose for which it is transmitted.

48 (cf: P.L.1968, c. 185, s.1)

1 19. Section 4 of P.L.1987, c.169 (C.2A:84A-22.15) is amended  
2 to read as follows:

3 4. Subject to Rule 37 of the Rules of Evidence, a victim  
4 counselor has a privilege not to be examined as a witness in any  
5 civil or criminal proceeding with regard to any confidential  
6 communication. The privilege shall be claimed by the counselor  
7 unless otherwise instructed by prior written consent of the victim.  
8 When a victim is **[incompetent]** incapacitated or deceased consent  
9 to disclosure may be given by the guardian, executor, or  
10 administrator except when the guardian, executor, or administrator  
11 is the defendant or has a relationship with the victim such that **[he]**  
12 the guardian, executor, or administrator has an interest in the  
13 outcome of the proceeding. The privilege may be knowingly  
14 waived by a juvenile. In any instance where the juvenile is, in the  
15 opinion of the judge, incapable of knowing consent, the parent or  
16 guardian of the juvenile may waive the privilege on behalf of the  
17 juvenile, provided that the parent or guardian is not the defendant  
18 and does not have a relationship with the defendant such that he has  
19 an interest in the outcome of the proceeding. A victim counselor or  
20 a victim cannot be compelled to provide testimony in any civil or  
21 criminal proceeding that would identify the name, address, location,  
22 or telephone number of a domestic violence shelter or any other  
23 facility that provided temporary emergency shelter to the victim of  
24 the offense or transaction that is the subject of the proceeding  
25 unless the facility is a party to the proceeding.  
26 (cf: P.L.1987, c.169, s.4)

27  
28 20. Section 4 of P.L.1979, c.484 (C.3A:25-42) is amended to  
29 read as follows:

30 4. A disclaimer on behalf of a decedent, minor, or **[mentally-**  
31 **incompetent]** incapacitated person may be made by the personal  
32 representative of the decedent or the guardian of the estate of the  
33 minor or **[mentally-incompetent]** incapacitated person. Such  
34 disclaimer shall not be effective unless, prior thereto, the personal  
35 representative or guardian has been authorized to disclaim by the  
36 court having jurisdiction of the estate of the decedent, minor, or  
37 **[mentally-incompetent]** incapacitated person, after finding that it is  
38 advisable and will not materially prejudice the rights of creditors,  
39 devisees, heirs, or beneficiaries of the decedent, the minor, or  
40 **[mentally-incompetent]** incapacitated person or his creditors, as the  
41 case may be.  
42 (cf: P.L.1979, c.484, s.4)

43  
44 21. N.J.S.3B:1-2 is amended to read as follows:

45 3B:1-2. "Incapacitated individual" means an individual who is  
46 impaired by reason of mental illness or **[mental deficiency]**  
47 intellectual disability to the extent that **[he]** the individual lacks  
48 sufficient capacity to govern himself and manage his affairs.

1 The term incapacitated individual is also used to designate an  
2 individual who is impaired by reason of physical illness or  
3 disability, chronic use of drugs, chronic alcoholism, or other cause  
4 (except minority) to the extent that **[he]** the individual lacks  
5 sufficient capacity to govern himself and manage **[his]** the  
6 individual's affairs.

7 The terms incapacity and incapacitated **[individual]** refer to the  
8 state or condition of an incapacitated individual as hereinbefore  
9 defined.

10 "Intellectual disability" means a significant subaverage general  
11 intellectual functioning existing concurrently with deficits in  
12 adaptive behavior which are manifested during the development  
13 period.

14 "Issue" of an individual means a descendant as defined in  
15 N.J.S.3B:1-1.

16 "Joint tenants with the right of survivorship" means co-owners of  
17 property held under circumstances that entitle one or more to the  
18 whole of the property on the death of the other or others, but  
19 excludes forms of co-ownership in which the underlying ownership  
20 of each party is in proportion to that party's contribution.

21 "Local administration" means administration by a personal  
22 representative appointed in this State.

23 "Local fiduciary" means any fiduciary who has received letters  
24 in this State and excludes foreign fiduciaries who acquire the power  
25 of local fiduciary pursuant to this title.

26 "Minor" means an individual who is under 18 years of age.

27 "Nonresident decedent" means a decedent who was domiciled in  
28 another jurisdiction at the time of his death.

29 "Parent" means any person entitled to take or who would be  
30 entitled to take if the child, natural or adopted, died without a will,  
31 by intestate succession from the child whose relationship is in  
32 question and excludes any person who is a stepparent, resource  
33 family parent, or grandparent.

34 "Per capita." If a governing instrument requires property to be  
35 distributed "per capita," the property is divided to provide equal  
36 shares for each of the takers, without regard to their shares or the  
37 right of representation.

38 "Payor" means a trustee, insurer, business entity, employer,  
39 government, governmental agency or subdivision, or any other  
40 person authorized or obligated by law or a governing instrument to  
41 make payments.

42 "Person" means an individual or an organization.

43 "Per Stirpes." If a governing instrument requires property to be  
44 distributed "per stirpes," the property is divided into as many equal  
45 shares as there are: (1) surviving children of the designated  
46 ancestor; and (2) deceased children who left surviving descendants.  
47 Each surviving child is allocated one share. The share of each  
48 deceased child with surviving descendants is divided in the same

1 manner, with subdivision repeating at each succeeding generation  
2 until the property is fully allocated among surviving descendants.

3 "Personal representative" includes executor, administrator,  
4 successor personal representative, special administrator, and  
5 persons who perform substantially the same function under the law  
6 governing their status. "General personal representative" excludes  
7 special administrator.

8 "Representation; Per Capita at Each Generation." If an applicable  
9 statute or a governing instrument requires property to be distributed  
10 "by representation" or "per capita at each generation," the property  
11 is divided into as many equal shares as there are: (1) surviving  
12 descendants in the generation nearest to the designated ancestor  
13 which contains one or more surviving descendants; and (2)  
14 deceased descendants in the same generation who left surviving  
15 descendants, if any. Each surviving descendant in the nearest  
16 generation is allocated one share. The remaining shares, if any, are  
17 combined and then divided in the same manner among the surviving  
18 descendants of the deceased descendants, as if the surviving  
19 descendants who were allocated a share and their surviving  
20 descendants had predeceased the designated ancestor.

21 "Resident creditor" means a person domiciled in, or doing  
22 business in this State, who is, or could be, a claimant against an  
23 estate.

24 "Security" includes any note, stock, treasury stock, bond,  
25 mortgage, financing statement, debenture, evidence of indebtedness,  
26 certificate of interest or participation in an oil, gas, or mining title  
27 or lease or in payments out of production under the title or lease,  
28 collateral, trust certificate, transferable share, voting trust certificate  
29 or, in general, any interest or instrument commonly known as a  
30 security or as a security interest or any certificate of interest or  
31 participation, any temporary or interim certificate, receipt or  
32 certificate of deposit for, or any warrant or right to subscribe to or  
33 purchase, any of the foregoing.

34 "Stepchild" means a child of the surviving, deceased, or former  
35 spouse who is not a child of the decedent.

36 "Successor personal representative" means a personal  
37 representative, other than a special administrator, who is appointed  
38 to succeed a previously appointed personal representative.

39 "Successors" means those persons, other than creditors, who are  
40 entitled to real and personal property of a decedent under **[his]** a  
41 decedent's will or the laws governing intestate succession.

42 "Testamentary trustee" means a trustee designated by will or  
43 appointed to exercise a trust created by will.

44 "Testator" includes an individual and means male or female.

45 "Trust" includes any express trust, private or charitable, with  
46 additions thereto, wherever and however created. It also includes a  
47 trust created by judgment under which the trust is to be  
48 administered in the manner of an express trust. "Trust" excludes  
49 other constructive trusts, and it excludes resulting trusts,

1 guardianships, personal representatives, trust accounts created  
2 under the "Multiple-party Deposit Account Act," P.L.1979, c.491  
3 (C.17:16I-1 et seq.), gifts to minors under the "New Jersey Uniform  
4 Gifts to Minors Act," P.L.1963, c.177 (C.46:38-13 et seq.), or the  
5 "New Jersey Uniform Transfers to Minors Act," R.S.46:38A-1 et  
6 seq., business trusts providing for certificates to be issued to  
7 beneficiaries, common trusts, security arrangements, liquidation  
8 trusts, and trusts for the primary purpose of paying debts, dividends,  
9 interest, salaries, wages, profits, pensions or employee benefits of  
10 any kind, and any arrangement under which a person is nominee or  
11 escrowee for another.

12 "Trustee" includes an original, additional or successor trustee,  
13 whether or not appointed or confirmed by court.

14 "Ward" means an individual for whom a guardian is appointed or  
15 an individual under the protection of the court.

16 "Will" means the last will and testament of a testator or testatrix  
17 and includes any codicil and any testamentary instrument that  
18 merely appoints an executor, revokes or revises another will,  
19 nominates a guardian, or expressly excludes or limits the right of a  
20 person or class to succeed to property of the decedent passing by  
21 intestate succession.

22 (cf: P.L.2005, c.160, s.1)

23

24 22. N.J.S.3B:11-5 is amended to read as follows:

25 3B:11-5. When a trustee appointed by a will probated in the  
26 surrogate's court of any county or a trustee appointed under a trust  
27 inter vivos as to real or personal property situate in any county fails  
28 or refuses to act or dies before the execution or completion of the  
29 trust [committed to him], or absconds or removes from this State,  
30 or is adjudicated [a mental incompetent] an incapacitated  
31 individual or becomes in any manner legally incapable of executing  
32 the trust, the Superior Court may remove the trustee[, if he be  
33 alive,] and appoint a suitable person or persons to execute the trust,  
34 and the trustee or trustees so appointed shall be entitled to the trust  
35 estate as fully and in the same manner as the original trustee was  
36 and shall have all the power and discretion of the original trustee.

37 (cf: P.L.1981, c.405, s.3B:11-5)

38

39 23. Section 3 of P.L.1985, c.424 (C.3B:11-21) is amended to  
40 read as follows:

41 3. This act shall be liberally construed and applied to promote  
42 its underlying purposes and policies, which are among others to:

43 a. encourage the orderly establishment of community trusts for  
44 the benefit of persons with severe chronic disabilities;

45 b. ensure that community trusts are administered properly and  
46 that the managing boards of the trusts are free from conflicts of  
47 interest, except that an unpaid member of the managing board of a

1 nonprofit corporation provider shall not be deemed to be in conflict  
2 as a member of the managing board of a trust;

3 c. facilitate sound administration of trust funds for persons  
4 with severe chronic disabilities by allowing family members and  
5 others to pool resources in order to make professional management  
6 investment more efficient;

7 d. provide parents of persons with severe chronic disabilities  
8 peace of mind in knowing that a means exists to ensure that the  
9 interests of their children who have severe chronic disabilities are  
10 properly looked after and managed after the parents die or become  
11 incapacitated;

12 e. help make guardians available for persons with severe  
13 chronic disabilities who are **[incompetent]** incapacitated, when no  
14 other family member is available for this purpose;

15 f. encourage the availability of private resources to purchase  
16 for persons with severe chronic disabilities goods and services that  
17 are not available through any governmental or charitable program  
18 and to conserve these resources by limiting purchases to those  
19 which are not available from other sources;

20 g. encourage the inclusion, as beneficiaries of community  
21 trusts, of persons who lack resources and whose families are  
22 indigent, in a way that does not diminish the resources available to  
23 other beneficiaries whose families have contributed to the trust; and

24 h. remove the disincentives which discourage parents and  
25 others from setting aside funds for the future protection of persons  
26 with severe chronic disabilities by ensuring that the interests of  
27 beneficiaries in community trusts are not considered assets or  
28 income which would disqualify them from any governmental or  
29 charitable entitlement program with an economic means test.

30 (cf: P.L.1993, c.224, s.1)

31

32 24. Section 4 of P.L.1985, c.424 (C.3B:11-22) is amended to  
33 read as follows:

34 4. As used in **[this act]** P.L.1985, c.424 (C.3B:11-19 et seq.):

35 a. "Beneficiary" means any person with a severe chronic  
36 disability who has qualified as a member of the community trust  
37 program and who has the right to receive those services and benefits  
38 of the community trust program as provided in **[this act]** P.L.1985,  
39 c.424.

40 b. "Board" means the board of trustees or the group of persons  
41 vested with the management of the business and affairs of a  
42 corporation, formed for the purpose of managing a community trust,  
43 irrespective of the name by which the group is designated.

44 c. "Community trust" means a nonprofit organization which  
45 offers the following services:

46 (1) administration of special trust funds for persons with severe  
47 chronic disabilities;

48 (2) follow-along services;

1 (3) guardianship for persons with severe chronic disabilities  
2 who are **[incompetent]** incapacitated, when no other immediate  
3 family member or friend is available for this purpose; and

4 (4) advice and counsel to persons who have been appointed as  
5 individual guardians of the persons or estates of persons with severe  
6 chronic disabilities.

7 d. "Follow-along services" means those services offered by  
8 community trusts which are designed to insure that the needs of  
9 each beneficiary are being met for as long as may be required and  
10 may include periodic visits to the beneficiary and to the places  
11 where the beneficiary receives services, participation in the  
12 development of individualized plans being made by service  
13 providers for the beneficiary, and other similar services consistent  
14 with the purposes of **[this act]** P.L.1985, c.424.

15 e. "Severe chronic disability" means a physical or mental  
16 impairment which is expected to give rise to a long-term need for  
17 specialized health, social, and other services, and which makes the  
18 person with **[such a disability]** that impairment dependent upon  
19 others for assistance to secure these services.

20 f. "Trustee" means any member of the board of a corporation,  
21 formed for the purpose of managing a community trust, whether  
22 that member is designated as a trustee, director, manager, governor,  
23 or by any other title.

24 g. "Surplus trust funds" means funds accumulated in the trust  
25 from contributions made on behalf of an individual beneficiary,  
26 which, after the death of the beneficiary, are determined by the  
27 board to be in excess of the actual cost of providing services during  
28 the beneficiary's lifetime, including the beneficiary's share of  
29 administrative costs, and of any amounts provided to a  
30 remainderman.

31 (cf: P.L.1993, c.224, s.2)

32

33 25. N.J.S.3B:13-2 is amended to read as follows:

34 3B:13-2. As used in this chapter:

35 a. "Federal agency" means any bureau, office, board, or officer  
36 of the United States by whatever name known, now or hereafter  
37 charged by Congress:

38 (1) With payment of pensions, bounties, and allowances to  
39 veterans of the military service of the United States, their widows,  
40 widowers, children, mothers, and fathers**[,]** ; or

41 (2) With the administration of the affairs of any of the aforesaid  
42 persons who may be minors or persons who are **[mentally**  
43 **incompetent]** incapacitated or **[to manage]** with the management of  
44 pensions, bounties, and allowances payable to them**[;]** .

45 b. "Military" has reference to the army, navy, marine, air, and  
46 coast guard services**[;]** .



1 c. "Estate" and "income" include only moneys received by the  
2 guardian from a Federal agency and earnings, interest, and profits  
3 derived therefrom[;] .

4 d. "Benefits" means moneys payable by the United States to the  
5 aforesaid persons or their guardians through a Federal agency[;] .

6 e. "Chief officer" means an officer of a Federal agency,  
7 charged by the laws of the United States with the particular duty in  
8 connection with which the term is used[;] .

9 f. "Ward" means a beneficiary of a Federal agency[;] .

10 g. "Guardian" means a person acting as fiduciary for a ward.  
11 (cf: P.L.1981, c.405, s.3B:13-2)

12  
13 26. N.J.S.3B:13-6 is amended to read as follows:

14 3B:13-6. For the purpose of appointing a guardian pursuant to  
15 this chapter, the [mental incompetency] incapacity of a beneficiary  
16 of a Federal agency shall be determined by the Superior Court.  
17 (cf: P.L.1981, c.405, s.3B:13-6)

18  
19 27. N.J.S.3B:13-7 is amended to read as follows:

20 3B:13-7. When, pursuant to any law of the United States or  
21 regulation of a Federal agency, the chief officer of the agency  
22 requires, prior to payment of benefits, that a guardian be appointed  
23 for a ward, the appointment for a person who is incapacitated shall  
24 be made in the Superior Court [in the case of a mental  
25 incompetent], and [in] the appointment for a minor shall be made  
26 in the Superior Court or in the surrogate's court [or in the Superior  
27 Court in the case of a minor].  
28 (cf: P.L.1981, c.405, s.3B:13-7)

29  
30 28. N.J.S.3B:13-8 is amended to read as follows:

31 N.J.S.3B:13-8. Except as provided in this section, no person  
32 shall accept appointment as guardian of a ward if [he be] acting as  
33 guardian for five wards.

34 In an action brought by an attorney of a Federal agency,  
35 establishing that a guardian is acting in a fiduciary capacity for  
36 more than five wards, the Superior Court shall require a final  
37 accounting forthwith from the guardian and shall discharge [him]  
38 the guardian.

39 The limitation of this section shall not apply where the guardian  
40 is a bank or trust company or a public guardian of [incompetent]  
41 veterans who are incapacitated, and an individual may be guardian  
42 of more than five wards if they are all members of the same family.  
43 (cf: P.L.1981, c.405, s.3B:13-8)

44  
45 29. N.J.S.3B:13-18 is amended to read as follows:

46 3B:13-18. When [an incompetent] a ward for whom a guardian  
47 has been appointed is incapacitated and becomes entitled to  
48 personal property amounting to not more than \$10,000.00 from any

1 source other than the United States Government, the court may  
2 authorize **【him】** the guardian to receive the personal property for  
3 conservation and administrative care. On payment of any money or  
4 delivery of property to the guardian, a release executed by **【him】**  
5 the guardian to the person or persons paying the money or  
6 delivering the property shall be valid and effective.

7 (cf: P.L.1981, c.405, s.3B:13-18)

8

9 30. N.J.S.3B:13-21 is amended to read as follows:

10 3B:13-21. There may be appointed in each county a person to be  
11 known as "public guardian of **【incompetent】** veterans who are  
12 incapacitated for the county of (naming county)", who shall be  
13 appointed by the Assignment Judge of the Superior Court in the  
14 county. **【He】** The person appointed shall hold office for the term of  
15 **【5】** five years from the date of **【his】** appointment and until **【his】** a  
16 successor is appointed and qualified.

17 (cf: P.L.1981, c.405, s.3B:13-21)

18

19 31. N.J.S.3B:13-22 is amended to read as follows:

20 3B:13-22. Before entering upon the duties of **【his】** office, a  
21 public guardian of **【incompetent】** veterans who are incapacitated  
22 shall execute a bond to the Superior Court in an amount and with  
23 sureties as shall be approved by the Superior Court, conditioned for  
24 the faithful discharge of all duties imposed by law upon **【him】** the  
25 person appointed public guardian.

26 The bond shall be renewed annually and shall, from time to time,  
27 be increased or reduced as the court may direct.

28 The expense of procuring the bond shall be paid by the county  
29 treasurer upon presentation of a proper voucher approved by the  
30 Assignment Judge of the Superior Court in the county.

31 (cf: P.L.1981, c.405, s.3B:13-22)

32

33 32. N.J.S.3B:13-23 is amended to read as follows:

34 3B:13-23. A public guardian of **【incompetent】** veterans who are  
35 incapacitated shall receive an annual salary to be fixed by the  
36 Assignment Judge of the Superior Court of the county for which the  
37 guardian is appointed, with the approval of the board of freeholders  
38 or governing body of the county.

39 The salary shall be paid by the county treasurer in semimonthly  
40 payments and shall be in lieu of all other charges, compensation,  
41 and commissions. A guardian shall not accept any other money  
42 whatsoever by way of fee, compensation, gratuity, or present for  
43 any **【of his】** services provided by the guardian.

44 (cf: P.L.1981, c.405, s.3B:13-23)

45

46 33. N.J.S.3B:13-24 is amended to read as follows:

47 3B:13-24. The public guardian of **【incompetent】** veterans who  
48 are incapacitated shall, in each county, assist, supervise, advise, and

1 otherwise aid the duly appointed guardians of **[incompetent]** these  
2 veterans and give help as may be necessary in preparing and  
3 drawing papers and documents, and also help them to work in  
4 conjunction with the United States **[Veterans' Administration]**  
5 Department of Veterans Affairs, so that their wards may be fully  
6 protected.  
7 (cf: P.L.1981, c.405, s.3B:13-24)

8  
9 34. N.J.S.3B:13-25 is amended to read as follows:

10 3B:13-25. The public guardian of **[incompetent]** veterans who  
11 are incapacitated shall be subject to discharge or removal, by the  
12 court, on the grounds and in the manner in which other guardians of  
13 **[mental incompetents]** persons who are incapacitated are  
14 discharged or removed.  
15 (cf: P.L.1981, c.405, s.3B:13-25)

16  
17 35. N.J.S.3B:13-26 is amended to read as follows:

18 3B:13-26. Where an action is brought in the Superior Court for  
19 the appointment of a guardian for a person who, while in the  
20 military, naval, marine, air, or coast guard service of the United  
21 States, or after discharge therefrom, is **[or shall have been]**  
22 determined to be **[mentally incompetent]** incapacitated, whether or  
23 not **[he is or shall have been]** committed or confined to an  
24 institution for the care of persons who are **[mentally incompetent**  
25 **persons]** incapacitated, and the heirs of the person are unwilling,  
26 unable, or unqualified for the appointment, or **[in case it shall**  
27 **appear to the court that]** if the best interests of the person require it,  
28 the Superior Court may appoint the public guardian of the county in  
29 which the person resides as **[his]** guardian of the person.  
30 (cf: P.L.1981, c.405, s.3B:13-26)

31  
32 36. N.J.S.3B:13-27 is amended to read as follows:

33 3B:13-27. The public guardian of **[incompetent]** veterans who  
34 are incapacitated shall have, in respect of any veteran and the estate  
35 of any veteran for whom **[he has been]** the public guardian is  
36 appointed **[guardian]**, the same power and authority as any other  
37 duly appointed guardian of a **[mental incompetent]** person who is  
38 incapacitated.  
39 (cf: P.L.1981, c.405, s.3B:13-27)

40  
41 37. N.J.S.3B:13-28 is amended to read as follows:

42 3B:13-28. The public guardian shall settle **[his]** accounts in  
43 each estate in which **[he has been]** the guardian is appointed  
44 **[guardian]** at the times and in the same manner as other guardians  
45 of **[mental incompetents]** persons who are incapacitated.  
46 (cf: P.L.1981, c.405, s.3B:13-28)

1 38. N.J.S.3B:13-29 is amended to read as follows:

2 3B:13-29. Upon the termination of a guardianship, by death of  
3 **【his】** the ward or otherwise, the public guardian shall settle **【his】**  
4 the account **【as guardian】** in the same manner as other guardians of  
5 **【mental incompetents】** persons who are incapacitated.

6 (cf: P.L.1981, c.405, s.3B:13-29)

7

8 39. N.J.S.3B:13-31 is amended to read as follows:

9 3B:13-31. The public guardian of **【incompetent】** veterans who  
10 are incapacitated may, when authorized by the Superior Court,  
11 employ counsel to represent **【him】** the public guardian.

12 The compensation of counsel shall be fixed by the court and paid  
13 from moneys in the guardian's **【hands】** control belonging to the  
14 estate involved in litigation.

15 (cf: P.L.1981, c.405, s.3B:13-31)

16

17 40. N.J.S.3B:13A-1 is amended to read as follows:

18 3B:13A-1. As used in this chapter:

19 a. "Conservatee" means a person who has not been **【judicially**  
20 **declared incompetent】** adjudicated incapacitated but who by reason  
21 of advanced age, illness, or physical infirmity, is unable to care for  
22 or manage **【his】** property or has become unable to provide **【for**  
23 **himself】** self-support or support for others **【dependent】** who  
24 depend upon **【him for】** that support【;】.

25 b. "Conservator" means a person appointed by the court to  
26 manage the estate of a conservatee.

27 (cf: P.L.1983, c.192, s.3B:13A-1)

28

29 41. N.J.S.3B:13A-16 is amended to read as follows:

30 3B:13A-16. The appointment of a conservator shall not:

31 a. Be evidence of the **【competency】** capacity or  
32 **【incompetency】** incapacity of a conservatee; or

33 b. Transfer title of the conservatee's real and personal property  
34 to the conservator; or

35 c. Deprive or modify any civil right of the conservatee,  
36 including but not limited to civil service status and appointment or  
37 rights relating to the granting, forfeiture, or denial of a license,  
38 permit, privilege, or benefit pursuant to any law.

39 (cf: P.L.1983, c.192, s.3B:13A-16)

40

41 42. N.J.S.3B:13A-34 is amended to read as follows:

42 3B:13A-34. A conservatorship shall terminate upon the death of  
43 the conservatee or upon **【his having been adjudicated】** adjudication  
44 of the conservatee to be **【incompetent】** incapacitated as provided by  
45 law, but the termination shall not affect the conservator's liability

1 for prior acts nor **[his]** obligation to account funds and property of  
2 the conservatee.

3 (cf: P.L.1983, c.192, s.3B:13A-34)

4

5 43. N.J.S.3B:13A-36 is amended to read as follows:

6 3B:13A-36. A conservator shall be compensated for **[his]**  
7 services in the same manner as a guardian for a minor or **[mental**  
8 **incompetent]** for a person who is incapacitated.

9 (cf: P.L.1983, c.192, s.3B:13A-36)

10

11 44. N.J.S.3B:14-21 is amended to read as follows:

12 3B:14-21. The court may remove a fiduciary from office when  
13 the fiduciary:

14 a. After due notice of an order or judgment of the court so  
15 directing, **[he]** neglects or refuses, within the time fixed by the  
16 court, to file an inventory, render an account, or give security or  
17 additional security;

18 b. After due notice of any other order or judgment of the court  
19 made under its proper authority, **[he]** neglects or refuses to perform  
20 or obey the order or judgment within the time fixed by the court;  
21 **[or]**

22 c. **[He has embezzled, wasted or misapplied]** Embezzles,  
23 wastes, or misapplies any part of the estate **[committed to his**  
24 **custody]** for which the fiduciary is responsible, or **[has abused]**  
25 abuses the trust and confidence reposed in **[him]** the fiduciary;  
26 **[or]**

27 d. **[He has removed from the state or does not reside therein]**  
28 No longer resides nor has an office in the State and neglects or  
29 refuses to proceed with the administration of the estate and perform  
30 the duties **[and trust devolving upon him]** required; **[or]**

31 e. **[He is of unsound mind or mentally]** Is incapacitated for the  
32 transaction of business; or

33 f. **[One of two or more fiduciaries has neglected or refused]**  
34 Neglects or refuses, as one of two or more fiduciaries, to perform  
35 **[his]** the required duties or to join with the other fiduciary or  
36 fiduciaries in the administration of the estate **[committed to their**  
37 **care]** for which they are responsible whereby the proper  
38 administration and settlement of the estate is or may be hindered or  
39 prevented.

40 (cf: P.L.1981, c.405, s.3B:14-21)

41

42 45. N.J.S.3B:14-23 is amended to read as follows:

43 3B:14-23. Powers. In the absence of contrary or limiting  
44 provisions in the judgment or order appointing a fiduciary, in the  
45 will, deed, or other instrument or in a subsequent court judgment or  
46 order, every fiduciary shall, in the exercise of good faith and  
47 reasonable discretion, have the power:

- 1 a. To accept additions to any estate or trust from sources other  
2 than the estate of the decedent, the minor, **[mental incompetent]** the  
3 person who is incapacitated, or the settlor of a trust;
- 4 b. To acquire the remaining undivided interest in an estate or  
5 trust asset in which the fiduciary, in **[his]** a fiduciary capacity,  
6 holds an undivided interest;
- 7 c. To invest and reinvest assets of the estate or trust under the  
8 provisions of the will, deed, or other instrument or as otherwise  
9 provided by law and to exchange assets for investments and other  
10 property upon terms as may seem advisable to the fiduciary;
- 11 d. To effect and keep in force fire, rent, title, liability, casualty,  
12 or other insurance to protect the property of the estate or trust and to  
13 protect the fiduciary;
- 14 e. With respect to any property or any interest therein owned  
15 by an estate or trust, including any real property belonging to the  
16 fiduciary's decedent at death, except where the property or any  
17 interest therein is specifically disposed of:
- 18 (1) To take possession of and manage the property and to collect  
19 the rents therefrom, and pay taxes, mortgage interest, and other  
20 charges against the property;
- 21 (2) To sell the property at public or private sale, and on terms as  
22 in the opinion of the fiduciary shall be most advantageous to those  
23 interested therein;
- 24 (3) With respect to fiduciaries other than a trustee, to lease the  
25 property for a term not exceeding three years, and in the case of a  
26 trustee to lease the property for a term not exceeding 10 years, even  
27 though the term extends beyond the duration of the trust, and in  
28 either case including the right to explore for and remove mineral or  
29 other natural resources, and in connection with mineral leases to  
30 enter into pooling and unitization agreements;
- 31 (4) To mortgage the property;
- 32 (5) To grant easements to adjoining owners and utilities;
- 33 (6) A fiduciary acting under a will may exercise any of the  
34 powers granted by this subsection e. notwithstanding the effects  
35 upon the will of the birth of a child after its execution;
- 36 f. To make repairs to the property of the estate or trust for the  
37 purpose of preserving the property or rendering it rentable or  
38 saleable;
- 39 g. To grant options for the sale of any property of the estate or  
40 trust for a period not exceeding six months;
- 41 h. With respect to any mortgage held by the estate or trust to  
42 continue it upon and after maturity, with or without renewal or  
43 extension, upon terms as may seem advisable to the fiduciary and to  
44 foreclose, as an incident to collection of any bond or note, any  
45 mortgage and purchase the mortgaged property or acquire the  
46 property by deed from the mortgagor in lieu of foreclosure;
- 47 i. In the case of the survivor or survivors of two or more  
48 fiduciaries to administer the estate or trust without the appointment  
49 of a successor to the fiduciary or fiduciaries who have ceased to act

1 and to exercise or perform all of the powers given unless contrary to  
2 the express provision of the will, deed, or other instrument;

3 j. As a new, alternate, successor, substitute, or additional  
4 fiduciary or fiduciaries, to have or succeed to all of the powers,  
5 duties, and discretion of the original fiduciary or fiduciaries, with  
6 respect to the estate or trust, as were given to the original fiduciary  
7 or fiduciaries named in or appointed by a will, deed, or other  
8 instrument, unless the exercise of the powers, duties, or discretion  
9 of the original fiduciary or fiduciaries is expressly prohibited by the  
10 will, deed, or other instrument to any successor or substitute  
11 fiduciary or fiduciaries;

12 k. Where there are three or more fiduciaries qualified to act, to  
13 take any action with respect to the estate or trust which a majority  
14 of the fiduciaries shall determine; a fiduciary who fails to act  
15 through absence or disability, or a dissenting fiduciary who joins in  
16 carrying out the decision of a majority of the fiduciaries if **[his]** the  
17 dissent is expressed promptly in writing to **[his]** the cofiduciaries,  
18 shall not be liable for the consequences of any majority decision,  
19 provided that liability for failure to join in administering the trust or  
20 to prevent a breach of trust may not thus be avoided;

21 l. To employ and compensate attorneys for services rendered  
22 to the estate or trust or to a fiduciary in the performance of **[his]**  
23 the fiduciary's duties;

24 m. To compromise, contest, or otherwise settle any claim in  
25 favor of the estate, trust, or fiduciary or in favor of third persons  
26 and against the estate, trust, or fiduciary, including transfer  
27 inheritance, estate, income, and other taxes;

28 n. To vote in person or by proxy, discretionary or otherwise,  
29 shares of stock or other securities held by the estate or trust;

30 o. To pay calls, assessments, and any other sums chargeable or  
31 accruing against or on account of shares of stock, bonds,  
32 debentures, or other corporate securities in the **[hands]** control of a  
33 fiduciary, whenever the payments may be legally enforceable  
34 against the fiduciary or any property of the estate or trust or the  
35 fiduciary deems payment expedient and for the best interests of the  
36 estate or trust;

37 p. To sell or exercise stock subscription or conversion rights,  
38 participate in foreclosures, reorganizations, consolidations, mergers,  
39 or liquidations, and to consent to corporate sales or leases and  
40 encumbrances, and, in the exercise of those powers, the fiduciary is  
41 authorized to deposit stocks, bonds, or other securities with any  
42 custodian, agent, protective or other similar committee, or trustee  
43 under a voting trust agreement, under terms and conditions  
44 respecting the deposit thereof as the fiduciary may approve;

45 q. To execute and deliver agreements, assignments, bills of  
46 sale, contracts, deeds, notes, receipts, and any other instrument  
47 necessary or appropriate for the administration of the estate or trust;

48 r. In the case of a trustee:

1 (1) To hold two or more trusts or parts of trusts created by the  
2 same instrument, as an undivided whole, without separation as  
3 between the trusts or parts of the trusts, provided that separate trusts  
4 or parts of trusts shall have undivided interests and provided further  
5 that no holding shall defer the vesting of any estate in possession or  
6 otherwise;

7 (2) To divide a trust, before or after its initial funding, into two  
8 or more separate trusts, provided that such division will not  
9 materially impair the accomplishment of the trust purposes or the  
10 interests of any beneficiary. Distributions provided for by the  
11 governing instrument may be made from one or more of the  
12 separate trusts;

13 s. To distribute in kind any property of the estate or trust as  
14 provided in article 1 of chapter 23 of this [title] Title;

15 t. To join with the surviving spouse, partner in a civil union, or  
16 domestic partner, the executor of [his or her] the decedent's will,  
17 or the administrator of [his or her] the decedent's estate in the  
18 execution and filing of a joint income tax return for any period prior  
19 to the death of a decedent for which [he has not filed a] no return  
20 or [a] gift tax return on gifts made by the decedent's surviving  
21 spouse, partner in a civil union, or domestic partner was filed, and  
22 to consent to treat the gifts as being made one-half by the decedent,  
23 for any period prior to a decedent's death, and to pay taxes thereon  
24 as are chargeable to the decedent;

25 u. To acquire or dispose of an asset, including real or personal  
26 property in this State or another state, for cash or on credit, at  
27 public or private sale, and to manage, develop, improve, exchange,  
28 partition, change the character of, or abandon an estate asset;

29 v. To continue any business constituting the whole or any part  
30 of the estate for so long a period of time as the fiduciary may deem  
31 advisable and advantageous for the estate and persons interested  
32 therein;

33 w. In the case of a qualified bank as defined in section 1 of  
34 P.L.1948, c.67 (C.17:9A-1), and an out-of-State bank as defined in  
35 section 1 of P.L.1948, c.67 (C.17:9A-1), which has established a  
36 trust office in this State to purchase, sell, and maintain for any  
37 fiduciary account, securities issued by an investment company  
38 which is operated and maintained in accordance with the  
39 "Investment Company Act of 1940," 15 U.S.C.s.80a-1 et seq., and  
40 for which the qualified bank or out-of-State bank is providing  
41 services as an investment advisor, investment manager, custodian,  
42 or otherwise, including those for which it receives compensation, if:

43 (1) The investment is otherwise in accordance with applicable  
44 fiduciary standards; and

45 (2) The investment is authorized by the agreement or instrument  
46 creating the fiduciary account that gives the qualified bank or out-  
47 of-State bank investment authority, or by court order; or



1 (3) The qualified bank or out-of-State bank provides written  
2 notice not less than annually by prospectus, account statement, or  
3 otherwise, disclosing to any current income beneficiaries of the  
4 trust the services provided by the qualified bank or its affiliate or  
5 out-of-State bank to the investment company, and the rate, formula,  
6 or other method by which compensation paid to the qualified bank  
7 or its affiliate or out-of-State bank is determined and the qualified  
8 bank or out-of-State bank does not receive a written objection from  
9 any current income beneficiary within 30 days after receipt of this  
10 notice. If a written objection is received from any current income  
11 beneficiary pursuant to this paragraph (3), no such investment of  
12 the trust assets of that fiduciary account shall be made or  
13 maintained.

14 Such investment shall not be deemed self-dealing or a fiduciary  
15 conflict; nor shall the fact that other beneficiaries of fiduciary  
16 accounts of the qualified bank or out-of-State bank have similar  
17 investments be deemed to be an improper commingling of assets by  
18 the qualified bank or out-of-State bank.

19 For purposes of this subsection, "fiduciary account" shall include  
20 a trust, estate, agency, or other account in which funds, property, or  
21 both, are held by a qualified bank pursuant to section 28 of  
22 P.L.1948, c.67 (C.17:9A-28), or an account for which a qualified  
23 bank or out-of-State bank acts as investment advisor or manager or  
24 an account held by an out-of-State bank as defined in section 1 of  
25 P.L.1948, c. 67 (C.17:9A-1);

26 x. To employ and compensate accountants from the fiduciary  
27 fund for services rendered to the estate or trust or to a fiduciary in  
28 the performance of the fiduciary's duties, including the duty of a  
29 corporate or other fiduciary with respect to the preparation of  
30 accountings, without reduction in commissions due to the fiduciary,  
31 so long as such accountings are not the usual, customary, or routine  
32 services provided by the fiduciary in light of the nature and skill of  
33 the fiduciary. In evaluating the actions of the fiduciary under this  
34 subsection, the court shall consider the size and complexity of the  
35 fiduciary fund, the length of time for which the accounting is  
36 rendered, and the increased risk and responsibilities imposed on  
37 fiduciaries as a result of revisions to laws affecting fiduciaries  
38 including, but not limited to, the "Uniform Principal and Income  
39 Act of 2001," P.L.2001, c.212 (C.3B:19B-1 et seq.) and the  
40 "Prudent Investor Act," P.L.1997, c.26 (C.3B:20-11.1 et seq.)  
41 provided that such revisions of the laws affecting fiduciaries were  
42 enacted after the fiduciary responsibilities under the corresponding  
43 will, deed, or other instrument, or court judgment or order, were  
44 imposed on, and assumed by, the fiduciary. For purposes of this  
45 subsection, "Accountant" means a person who is registered as a  
46 certified public accountant pursuant to the provisions of the  
47 "Accountancy Act of 1997," P.L.1997, c.259 (C.45:2B-42 et seq.),  
48 or an accounting firm which is organized for the practice of public  
49 accounting pursuant to the provisions of the "Accountancy Act of

1 1997," P.L.1997, c.259 (C.45:2B-42 et seq.) and "The Professional  
2 Service Corporation Act," P.L.1969, c.232 (C.14A:17-1 et seq.);  
3 and

4 y. The powers set forth in this section are in addition to any  
5 other powers granted by law, and by a will, deed, or other  
6 instrument.

7 (cf: P.L.2003, c.33, s.1)

8

9 46. N.J.S.3B:15-1 is amended to read as follows:

10 3B:15-1. The court or surrogate appointing a fiduciary in any of  
11 the instances enumerated below shall secure faithful performance of  
12 the duties of **his** the office by requiring the fiduciary thereby  
13 authorized to act to furnish bond to the Superior Court in a sum and  
14 with proper conditions and sureties, having due regard to the value  
15 of the estate **in his charge** and the extent of **his** the fiduciary's  
16 authority, as the court shall approve:

17 a. When an appointment is made upon failure of the will, or  
18 other instrument creating or continuing a fiduciary relationship, to  
19 name a fiduciary;

20 b. When a person is appointed in the place of the person named  
21 as fiduciary in the will, or other instrument creating or continuing  
22 the fiduciary relationship;

23 c. When the office to which the person is appointed is any form  
24 of administration, except: (1) administration ad litem which may be  
25 granted with or without bond; or (2) administration granted to a  
26 surviving spouse where the decedent's entire estate is payable to the  
27 surviving spouse;

28 d. When the office to which the person is appointed is any form  
29 of guardianship of a minor or a person who is incapacitated  
30 **person**, except as otherwise provided in N.J.S.3B:12-16 or  
31 N.J.S.3B:12-33 with respect to a guardian appointed by will;

32 e. When letters are granted to a nonresident executor, except in  
33 cases where the will provides that no security shall be required of  
34 the person named as executor therein;

35 f. When an additional or substituted fiduciary is appointed;

36 g. When an appointment is made under chapter 26 of this title,  
37 of a fiduciary for the estate or property, or any part thereof, of an  
38 absentee;

39 h. When a fiduciary moves from the State, in which case the  
40 court may require **him** the fiduciary to give such security as **it**  
41 may determine the court determines; or

42 i. (1) When an appointment is made, regardless of any  
43 direction in a last will and testament relieving a personal  
44 representative, testamentary guardian, or testamentary trustee or  
45 their successors from giving bond, that person shall, before  
46 receiving letters or exercising any authority or control over the  
47 property, provide bond to secure performance of **his** the person's  
48 duties with respect to property to which a **developmentally**

1 disabled] person with a developmental disability as defined in  
2 section 3 of P.L.1985, c.145 (C.30:6D-25) is, or shall be entitled, if:

3 (a) the testator has identified that a devisee or beneficiary of  
4 property of the decedent's estate is [such] a [developmentally  
5 disabled] person with a developmental disability; or

6 (b) the person seeking appointment has actual knowledge that a  
7 devisee or beneficiary of property of the decedent's estate is [such]  
8 a [developmentally disabled] person with a developmental  
9 disability.

10 (2) No bond shall be required pursuant to paragraph (1) of this  
11 subsection if:

12 (a) the court has appointed another person as guardian of the  
13 person or guardian of the estate for the [developmentally disabled]  
14 person with a developmental disability;

15 (b) the person seeking the appointment is a family member  
16 within the third degree of consanguinity of the [developmentally  
17 disabled] person with a developmental disability; or

18 (c) the total value of the real and personal assets of the estate or  
19 trust does not exceed \$25,000.

20 (3) A personal representative, testamentary guardian, or  
21 testamentary trustee who is required to provide bond pursuant to  
22 paragraph (1) of this subsection shall file with the Superior Court an  
23 initial inventory and a final accounting of the estate in [his] that  
24 person's charge containing a true account of all assets of the estate.  
25 [Such] That person shall file an interim accounting every five  
26 years, or a lesser period of time if so ordered by the Superior Court,  
27 in the case of an extended estate or trust administration.

28 (4) A personal representative, testamentary guardian, or  
29 testamentary trustee who is required to provide bond pursuant to  
30 paragraph (1) of this subsection may make application to the court  
31 to waive the bond or reduce the amount of bond for good cause  
32 shown, including the need to preserve assets of the estate.

33 This subsection shall not apply to qualified financial institutions  
34 pursuant to section 30 of P.L.1948, c.67 (C.17:9A-30) or to non-  
35 profit community trusts organized pursuant to P.L.1985, c.424  
36 (C.3B:11-19 et seq.).

37 Nothing contained in this section shall be construed to require a  
38 bond in any case where it is specifically provided by law that a  
39 bond need not be required.

40 (cf: P.L.2010, c.34, s.3)

41

42 47. N.J.S.3B:15-7 is amended to read as follows:

43 3B:15-7. The bond required of a guardian of a minor or [mental  
44 incompetent] a person who is incapacitated shall be conditioned  
45 substantially as follows:

46 a. To [well and truly] administer the ward's estate to the best  
47 of the guardian's ability, and to take proper care of the ward if the  
48 guardian is the guardian of the ward's person;

1       b. To make a just and true account of **[his]** the administration  
2 of the guardianship, and, if required by the court, to settle **[his]** the  
3 accounts therein within the time so required.

4 (cf: P.L.1981, c.405, s.3B:15-7)

5  
6       48. Section 1 of P.L.1987, c.28 (C.3B:15-17.1) is amended to  
7 read as follows:

8       1. Where the estate of a minor consists of the proceeds of a  
9 judgment recovered in favor of the minor in any court of this State  
10 and the funds recovered are placed under the control of the county  
11 surrogate, the funds shall be paid over to the person when the  
12 person reaches the age of 18 years, unless the court finds the person  
13 **[incompetent]** to be incapacitated.

14 (cf: P.L.1987, c.28, s.1)

15  
16       49. N.J.S.3B:16-8 is amended to read as follows:

17       3B:16-8. Every guardian of the estate of a minor or **[mental**  
18 **incompetent]** a person who is incapacitated may, and if required by  
19 the court shall, file with the surrogate of the proper county or the  
20 clerk of the Superior Court**[, as the case may be,]** an inventory,  
21 under oath, of all the real and personal property which **[has come to**  
22 **his hands]** is in the control, possession, or knowledge of the  
23 guardian or **[into the hands of]** any other person **[for him]** on the  
24 guardian's behalf. The court shall not require an inventory and  
25 appraisal to be filed until **[3]** three months have elapsed after the  
26 grant of letters.

27 (cf: P.L.1981, c.405, s.3B:16-8)

28  
29       50. N.J.S.3B:17-1 is amended to read as follows:

30       3B:17-1. A fiduciary need not render or settle **[his]** an account  
31 if **[he]** the fiduciary files with the court a release or discharge from  
32 the beneficiary, ward, or cestui que trust who **[is of full age]** has  
33 reached majority and is not **[mentally competent]** incapacitated.

34       The release or discharge shall be executed and acknowledged as  
35 provided for deeds of real estate to be recorded.

36 (cf: P.L.1981, c.405, s.3B:17-1)

37  
38       51. N.J.S.3B:23-21 is amended to read as follows:

39       3B:23-21. Unclaimed estate assets. When a fiduciary states  
40 **[his]** a final account and there remains in **[his hands]** the  
41 fiduciary's control a balance, devise, distributive share, dividend, or  
42 sum of money to be paid to a person and the person, or **[his]** that  
43 person's guardian, if **[he be an infant]** a minor or **[mental**  
44 **incompetent]** a person who is incapacitated, fails to claim the  
45 balance, devise, distributive share, dividend, or sum of money  
46 within the period of time set forth in R.S.46:30B-37.1, then the  
47 property shall be disposed of as provided in N.J.S.3B:23-19 if it is

1 part of an intestate estate or otherwise presumed abandoned and  
2 handled in accordance with the "Uniform Unclaimed Property Act  
3 (1981)," R.S.46:30B-1 et seq.  
4 (cf: P.L.2001, c.109, s.3)

5

6 52. N.J.S.3B:23-34 is amended to read as follows:

7 3B:23-34. An action to recover a devise may not be maintained  
8 until:

9 a. The devise becomes due and payable;

10 b. Reasonable demand for payment is made upon the personal  
11 representative; and

12 c. A refunding bond in substantially the form prescribed in  
13 N.J.S.3B:23-26 is tendered to the personal representative by the  
14 devisee, or, if the devisee is a minor or a person who is  
15 incapacitated, by the guardian of [his] the devisee's estate [if the  
16 devisee is an infant or a mental incompetent], and, if [he refuses to  
17 accept] not accepted by the personal representative, the refunding  
18 bond[,] is filed with the clerk of the court, prior to the  
19 commencement of the action.

20 (cf: P.L.1981, c.405, s.3B:23-34)

21

22 53. N.J.S.3B:23-39 is amended to read as follows:

23 3B:23-39. When a devise charged by will upon real estate is  
24 wholly or in part limited over:

25 a. To **[infants, mental incompetents]** minors, persons who are  
26 incapacitated, or persons not in esse; or

27 b. To persons who cannot be ascertained until the happening of  
28 an event named in the will; or

29 c. In a manner that the vesting of the devise may be contingent-

30 The Superior Court may, in a summary or other action by the  
31 executor, or a person interested in the real estate, direct the devise  
32 paid into court together with any additional sums as the court may  
33 deem reasonable to cover the expense of investing and taking  
34 charge of the devise. Upon payment into court, the real estate shall  
35 be wholly clear and discharged from the lien created by the will.

36 (cf: P.L.1981, c.405, s.3B:23-39)

37

38 54. Section 1 of P.L.1955, c.232 (C.9:2-13) is amended to read  
39 as follows:

40 1. For the purposes of **[this act]** P.L.1955, c.232 (C.9:2-13 et  
41 seq.), the following words and phrases, unless otherwise indicated,  
42 shall be deemed to have the following meanings:

43 (a) The phrase "approved agency" means a legally constituted  
44 agency having its principal office within or without this State,  
45 which has been approved, pursuant to law, to place children in New  
46 Jersey for purposes of adoption.

47 (b) The word "child" means any person under 18 years of age.

1 (c) The word "custody" means continuing control and authority  
2 over the person of a child, established by natural parenthood, by  
3 order or judgment of a court of competent jurisdiction, or by written  
4 surrender to and approved agency pursuant to law.

5 (d) The phrase "forsaken parental obligations" means willful  
6 and continuous neglect or failure to perform the natural and regular  
7 obligations of care and support of a child.

8 (e) The phrase "mentally **incompetent**" incapacitated" means  
9 inability to understand and discharge the natural and regular  
10 obligations of care and support of a child by reason of mental  
11 disease, **feebleness of mind, or habitual intemperance** intellectual  
12 disability, or the effects of drug, alcohol, or substance abuse.

13 (f) The word "parent," when not otherwise described by the  
14 context, means a natural parent or parent by previous adoption.

15 (g) The word "may" shall be construed to be permissive and the  
16 word "shall" shall be construed to be mandatory.

17 (cf: P.L.1990, c.26, s.3)

18

19 55. Section 7 of P.L.1955, c.232 (C.9:2-19) is amended to read  
20 as follows:

21 7. If the court shall determine that custody of the child has  
22 been surrendered as provided in Article II of **this act** P.L.1955,  
23 c.232 (C.9:2-13 et seq.), the court may declare that the person  
24 making such surrender shall have no further right to custody of the  
25 child. If the court shall determine that a parent of the child is dead,  
26 or mentally **incompetent** incapacitated as defined in section 1 of  
27 P.L.1955, c.232 C.9:2-13), or has forsaken parental obligation, the  
28 court may declare that such parent shall have no further right to  
29 custody of the child. If the court shall determine that a custodian or  
30 guardian has been appointed for the child, but that such custodian or  
31 guardian has willfully and continuously neglected or failed to  
32 discharge the responsibilities of such appointment, the court may  
33 declare that such custodian or guardian shall have no further control  
34 and authority over the person of the child.

35 (cf: P.L.1990, c.26, s.4)

36

37 56. Section 3 of P.L.1972, c.81 (C.9:17B-3) is amended to read  
38 as follows:

39 3. Except **with respect to the provisions of N.J.S. 2A:14-21,**  
40 with respect to the provision of services pursuant to the laws  
41 relating to dependent and neglected children, allocated to chapter  
42 4C of Title 30 of the Revised Statutes (C.30:4C-1 to 30:4C-44), to  
43 persons between 18 and 21 years of age who seek to avail  
44 themselves of such services and who are enrolled in a school or  
45 training program below college level or who require a course of  
46 treatment for emotionally, cognitively, or physically disabled  
47 persons, with respect to the right of a court to take any action it  
48 deems appropriate and in the interest of a person under 21 years of

1 age, or to require a change in action heretofore taken by a court  
2 with respect to a person under 21 years of age, or with respect to the  
3 provisions of the "New Jersey Uniform Gifts to Minors Act"  
4 (P.L.1963, c.177, C.46:38-13 et seq.), or the "New Jersey Uniform  
5 Transfers to Minors Act," R.S. 46:38A-1 et seq., every person 18 or  
6 more years of age shall in all other matters and for all other  
7 purposes be deemed to be an adult and, notwithstanding any other  
8 provision of law to the contrary, shall have the same legal capacity  
9 to act and the same powers and obligations as a person 21 or more  
10 years of age. Except as herein otherwise provided, every act or  
11 action of any such person shall be as valid, binding, and enforceable  
12 by or against such person as if, at the time such act or action was  
13 performed or undertaken, such person was 21 or more years of age  
14 and no act or action by any such person performed or undertaken on  
15 or after the effective date of this act shall be subject to  
16 disaffirmance because of minority.  
17 (cf: P.L.1987, c.18, s.3)

18

19 57. Section 7 of P.L.1975, c.231 (C.10:4-12) is amended to read  
20 as follows:

21 7. a. Except as provided by subsection b. of this section all  
22 meetings of public bodies shall be open to the public at all times.  
23 Nothing in this act shall be construed to limit the discretion of a  
24 public body to permit, prohibit, or regulate the active participation  
25 of the public at any meeting, except that a municipal governing  
26 body and a board of education shall be required to set aside a  
27 portion of every meeting of the municipal governing body or board  
28 of education, the length of the portion to be determined by the  
29 municipal governing body or board of education, for public  
30 comment on any governmental or school district issue that a  
31 member of the public feels may be of concern to the residents of the  
32 municipality or school district.

33 b. A public body may exclude the public only from that portion  
34 of a meeting at which the public body discusses any:

35 (1) **[Any]** matter which, by express provision of federal law  
36 **[or]**, State statute, or rule of court shall be rendered confidential or  
37 excluded from the provisions of subsection a. of this section**[.]**;

38 (2) **[Any]** matter in which the release of information would  
39 impair a right to receive funds from the Government of the United  
40 States**[.]**;

41 (3) **[Any]** material the disclosure of which constitutes an  
42 unwarranted invasion of individual privacy such as any records,  
43 data, reports, recommendations, or other personal material of any  
44 educational, training, social service, medical, health, custodial,  
45 child protection, rehabilitation, legal defense, welfare, housing,  
46 relocation, insurance, and similar program or institution operated by  
47 a public body pertaining to any specific individual admitted to or  
48 served by **[such]** an institution or program, including but not

1 limited to, information relative to the individual's personal and  
2 family circumstances, and any material pertaining to admission,  
3 discharge, treatment, progress, or condition of any individual,  
4 unless the individual concerned (or, in the case of a minor or  
5 **[incompetent]** an incapacitated individual, **[his]** the individual's  
6 guardian) shall request in writing that the **[same]** material be  
7 disclosed publicly~~;~~ ;

8 (4) **[Any]** collective bargaining agreement, or the terms and  
9 conditions which are proposed for inclusion in any collective  
10 bargaining agreement, including the negotiation of the terms and  
11 conditions thereof with employees or representatives of employees  
12 of the public body~~;~~ ;

13 (5) **[Any]** matter involving the purchase, lease, or acquisition of  
14 real property with public funds, the setting of banking rates, or  
15 investment of public funds, **[where]** if it could adversely affect the  
16 public interest if discussion of **[such]** the matters were disclosed~~;~~ .  
17 ;

18 (6) **[Any]** tactics and techniques utilized in protecting the safety  
19 and property of the public, provided that their disclosure could  
20 impair **[such]** that protection **[. Any]** , or investigations of  
21 violations or possible violations of the law~~;~~ ;

22 (7) **[Any]** pending or anticipated litigation or contract  
23 negotiation other than in subsection b. (4) herein in which the  
24 public body is, or may become, a party~~;~~ .

25 **Any]** , or matters falling within the attorney-client privilege, to  
26 the extent that confidentiality is required in order for the attorney to  
27 exercise his ethical duties as a lawyer~~;~~ ;

28 (8) **[Any]** matter involving the employment, appointment,  
29 termination of employment, terms and conditions of employment,  
30 evaluation of the performance of, promotion, or disciplining of any  
31 specific prospective public officer or employee or current public  
32 officer or employee employed or appointed by the public body,  
33 unless all the individual employees or appointees whose rights  
34 could be adversely affected request in writing that **[such]** the  
35 matter or matters be discussed at a public meeting~~;~~ ; or

36 (9) **[Any]** deliberations of a public body occurring after a  
37 public hearing that may result in the imposition of a specific civil  
38 penalty upon the responding party or the suspension or loss of a  
39 license or permit belonging to the responding party as a result of an  
40 act or omission for which the responding party bears responsibility.

41 (cf: P.L.2008, c.14, s.1)

42

43 58. N.J.S.12A:3-308 is amended to read as follows:

44 12A:3-308. a. In an action with respect to an instrument, the  
45 authenticity of, and authority to make, each signature on the  
46 instrument is admitted unless specifically denied in the pleadings.  
47 If the validity of a signature is denied in the pleadings, the burden



1 of establishing validity is on the person claiming validity, but the  
2 signature is presumed to be authentic and authorized unless the  
3 action is to enforce the liability of the purported signer and the  
4 signer is **[dead]** deceased or **[incompetent]** incapacitated at the  
5 time of trial of the issue of validity of the signature. If an action to  
6 enforce the instrument is brought against a person as the  
7 undisclosed principal of a person who signed the instrument as a  
8 party to the instrument, the plaintiff has the burden of establishing  
9 that the defendant is liable on the instrument as a represented  
10 person under subsection a. of **[12A:3-402]** N.J.S.12A:3-402.

11 b. If the validity of signatures is admitted or proved and there  
12 is compliance with subsection a. of this section, a plaintiff  
13 producing the instrument is entitled to payment if the plaintiff  
14 proves entitlement to enforce the instrument under **[12A:3-301]**  
15 N.J.S.12A:3-301, unless the defendant proves a defense or claim in  
16 recoupment. If a defense or claim in recoupment is proved, the  
17 right to payment of the plaintiff is subject to the defense or claim,  
18 except to the extent the plaintiff proves that the plaintiff has rights  
19 of a holder in due course which are not subject to the defense or  
20 claim.

21 (cf: N.J.S.12A:3-308)

22

23 59. Section 16 of P.L.1966, c.291 (C.13:1C-16) is amended to  
24 read as follows:

25 16. The board may refuse the application of any applicant for an  
26 examination or, after due notice and public hearing, refuse to issue  
27 a certificate, or revoke any certificate issued by it, if the applicant  
28 for, or holder of, such a certificate~~[-]~~ :

29 (a) has been convicted of an offense involving moral turpitude,  
30 is a drug addict or alcoholic, or is **[mentally incompetent,]**  
31 incapacitated; or

32 (b) advocates the overthrow of the Government of the United  
33 States by force and violence or other unlawful means~~[,]~~ ; or

34 (c) has made any willful statement or impersonated any other  
35 person or permitted or aided any other person to impersonate **[him]**  
36 the applicant or certificate holder in connection with any  
37 application or examination for certification and registration~~[,]~~ ; or

38 (d) has been found to be inefficient in performing the duties of  
39 any position held by **[him]** the person, on the basis of the holding  
40 of which experience qualifications are offered on **[his]** that  
41 person's behalf.

42 (cf: P.L.1966, c.291, s.16)

43

44 60. Section 1 of P.L.1942, c.230 (C.17:4-9.1) is amended to read  
45 as follows:

46 1. **[Whenever a "successor company" has been or may**  
47 **hereafter be]** For purposes of this section, the term "successor  
48 company" includes "successor bank" or "successor savings bank";

1 and the term "predecessor company" includes "liquidating  
2 company" or "predecessor savings bank."

3 A successor company formed under [and by virtue of the  
4 provisions of section 17:4-9] R.S.17:4-9, repealed and replaced by  
5 section 16 of P.L.1948, c.67 (C.17:9A-16), and [has] qualified to  
6 act as a fiduciary as provided for [in section 17:4-41] by R.S.17:4-  
7 41, repealed and replaced by section 30 of P.L.1948, c.67 (C.17:9A-  
8 30), [subject to the exception hereinafter made,] in order to  
9 facilitate [and hasten] the orderly liquidation [and the winding up  
10 of the affairs] of the ["liquidating company"] predecessor  
11 company, [it shall and may be lawful for such] the ["successor  
12 company"] successor company shall be permitted [from time to  
13 time,] to [take over and become] be substituted as fiduciary in  
14 [any or all] those matters in which [said "liquidating company"]  
15 the predecessor company has qualified[; in any and all matters  
16 where].

17 If in the sound judgment of the ["liquidating company"]  
18 predecessor company and the ["successor company"] successor  
19 company such a substitution of fiduciary is deemed [advisable,] in  
20 the best interests of the trust or relation [,] and in aid of the  
21 [winding up of the affairs of the "liquidating company,"  
22 "liquidating company"] liquidation, the predecessor company may  
23 file its account to date with the court having [the] jurisdiction  
24 [thereof], and upon approval [of such account] thereof and [upon  
25 the] discharge [of the "liquidating company"] from [such] the  
26 trust or relation the [said " successor company"] successor  
27 company shall succeed to [all such] the rights, relations, and trusts  
28 and [the] associated duties [connected therewith], and shall  
29 execute and perform [each and every such] the trust or relation [in  
30 the same manner] as if [such "successor company"] the successor  
31 company had [itself] originally assumed the trust or relation;  
32 provided, however, that the ["successor company"] successor  
33 company shall not assume [no] the liabilities [which may have  
34 been] incurred by the ["liquidating company"] predecessor  
35 company incident to its administration of [such] the trust or  
36 relation.

37 [The "successor company"] Subject to this section, the successor  
38 company shall [as to such matters] succeed to [all] the rights and  
39 duties of the ["liquidating company"] predecessor company and to  
40 all fiduciary capacities[, whether as administrator, coadministrator,  
41 executor, coexecutor, trustee or cotrustee, guardian, coguardian,  
42 assignee, coassignee, receiver, coreceiver, committee or  
43 committeeman of estates of lunatics, or in any other fiduciary  
44 capacity of or] in respect to any estate or trust or other matter being  
45 administered under the laws of New Jersey, or as transfer agent or

1 registrar of stocks and bonds[, such relations as well as any other or  
2 similar fiduciary relations and all rights, privileges and duties  
3 connected therewith shall remain unimpaired, subject as  
4 aforesaid,].

5 Subject to this section, all fiduciary rights, privileges, and duties  
6 shall remain unimpaired and shall continue [into and] in the [said]  
7 ["successor company"] successor company from [and as of] the  
8 date of discharge by the court of the ["liquidating company"]  
9 predecessor company from [such] the trust or relation, [by the  
10 court, irrespective] regardless of : (i) the date [when such] the  
11 relationship [may have been created or] was established [, and  
12 irrespective of the date of said] ; (ii) the trust agreement [relating  
13 thereto or the date of death of any] was created; or (iii) the trustor  
14 [or] , the decedent [or lunatic] , the person who is mentally  
15 incapacitated, or the minor [whose estate is being so administered  
16 or managed, and it shall not be necessary for said "successor  
17 company"] died, without the need for the successor company to  
18 seek appointment in [said] the person's estates [by any court of  
19 this State]; provided [, further,] that [in all cases] where the  
20 instrument under which the ["liquidating company"] predecessor  
21 company qualified to act did not require the ["liquidating company"  
22 to furnish] furnishing of a bond, no [such] bond shall be required  
23 [of the "successor company" as provided for in section 17:4-41, or  
24 otherwise. The terms "successor company" and "liquidating  
25 company" as used herein shall apply to and be construed to have  
26 the same meaning as is placed on said terms by section 17:4-9].  
27 (cf: P.L.1942, c.230, s.1)

28  
29 61. Section 18 of P.L.1969, c.242 (C.18A:66-184) is amended to  
30 read as follows:

31 18. The disability benefits provided under [such] a group policy  
32 or policies for all eligible participants in the alternate benefit  
33 programs shall provide a monthly income if the participant becomes  
34 totally disabled from occupational or nonoccupational causes for a  
35 period of at least [6] six consecutive months following the  
36 effective date of the coverage. The monthly disability benefit may  
37 be paid by the insurance company so long as the participant remains  
38 disabled up to [his seventieth] the participant's 70th birthday,  
39 provided the disability commenced prior to [his sixtieth] the  
40 participant's 60th birthday. The benefit will terminate when the  
41 participant is no longer considered totally disabled or begins to  
42 receive retirement benefits.

43 The participant will be considered totally disabled if [he is]  
44 unable to perform each duty of [his] the participant's occupation  
45 and is under the regular care of a physician. After the 12 months  
46 following the commencement of [such] the disability benefit

1 payments, [he] the participant must be unable to engage in any  
2 gainful occupation for which [he] the participant is reasonably  
3 fitted by education, training, or experience. Total disability is not  
4 considered to exist if [he] the participant is gainfully employed.  
5 However, following an agreement with the insurance company and  
6 the policyholder, the participant can continue to receive disability  
7 benefits for a limited time while performing some type of work.  
8 During the period of rehabilitation the monthly benefit will be the  
9 regular payment less 80% of the participant's earnings from [such]  
10 the rehabilitative position.

11 For purposes of this section, a participant shall be deemed to be  
12 in service and covered by the disability benefit insurance provisions  
13 for a period of no more than [6] six months while on official leave  
14 of absence without pay if satisfactory evidence is presented to the  
15 Division of Pensions and Benefits that [such] the leave of absence  
16 without pay is due to illness and that the member was not actively  
17 engaged in any gainful occupation during [such] the period of  
18 leave of absence without pay.

19 Disability benefit insurance provisions of the group policy or  
20 policies shall not cover disability resulting from or contributed to  
21 by pregnancy, act of war, intentionally self-inflicted injury, or  
22 attempted suicide [whether or not sane] regardless of mental  
23 capacity. For purposes of [such] disability insurance the  
24 participant will not be considered to be disabled while [he is]  
25 imprisoned or [while] outside the United States, its territories or  
26 possessions, or Canada.

27 If the participant has recovered from the disability for which  
28 [he] the participant had received benefits and again becomes totally  
29 disabled while insured, the later disability will be regarded as a  
30 continuation of the prior one unless the participant has returned to  
31 full-time covered employment for at least [6] six months.  
32 However, if the later absence is due to an unrelated cause and the  
33 participant had returned to full-time work, it will be considered a  
34 new disability. The disability benefit insurance cannot be converted  
35 to an individual policy.

36 No person shall be covered by the disability benefit provision of  
37 the group policy or policies except upon the completion of one year  
38 of full-time continuous employment in a position eligible for  
39 participation in the alternate benefit program.

40 (cf: P.L.1969, c.242, s.18)

41

42 62. N.J.S.22A:2-10 is amended to read as follows:

43 22A:2-10. Chancery Division of Superior Court; costs awarded.

44 Upon the completion and determination of the following actions  
45 and proceedings in the Chancery Division of the Superior Court, the  
46 costs awarded to a party therein for the drawing of papers, including  
47 orders, writs and judgments, shall be as stated below:

1	Plaintiff's costs, foreclosure	\$ 50.00
2	Plaintiff's costs, partition	70.00
3	Plaintiff's and receiver's costs, receivership	125.00
4	Plaintiff's costs, receivership	62.50
5	Receiver's costs, receivership	62.50
6	Plaintiff's costs, divorce, dissolution of civil	
7	union, nullity, custody	30.00
8	Plaintiff's costs, causes of action for other relief	65.00
9	Plaintiff's costs, <b>[incompetency]</b> <u>incapacity</u> action	47.50
10	Plaintiff's costs, sale of lands of <b>[infant]</b> <u>minor</u>	
11	or <b>[incompetent]</b> <u>incapacitated individual</u>	50.00
12	Plaintiff's costs, release of dower or curtesy	50.00
13	Plaintiff's costs, mortgage lands of <b>[an infant]</b> <u>a minor</u>	
14	or <b>[incompetent]</b> <u>incapacitated individual</u>	50.00
15	Plaintiff's costs, interpleader	35.00
16	Plaintiff's costs, appointment of tax receiver	27.50
17	Plaintiff's costs, actions for payment of money	
18	into court; to hold real estate; to limit creditors	22.50
19	Plaintiff's costs, action for appointment of	
20	trustee or substituted trustee	33.50
21	Costs on contempt proceedings	25.00
22	Costs on application to fix dower or curtesy	22.50
23	Costs on application to pay moneys out of court	23.50
24	Costs on application for instructions, or to	
25	approve account	30.00
26	Costs on application for writ of execution	10.00
27	Costs on application for relief from final judgment	
28	or, in a matrimonial cause from judgment	
29	nisi or order	20.00
30	Costs on application for writ of possession	30.00
31	Costs on application for alimony pendente lite,	
32	attorney fee, suit money	20.00
33	Defendant's costs where final judgment	
34	is taken by <b>[him]</b> <u>defendant</u>	30.00
35	Defendant's costs where final judgment is	
36	not taken by <b>[him]</b> <u>defendant</u>	20.00
37	Costs upon any other litigated or special motion,	
38	subsidiary or interlocutory, not heretofore	
39	provided for	50.00
40	(cf: P.L.2006, c.103, s.84)	

41  
42 63. Section 2 of P.L.1991, c.201 (C.26:2H-54) is amended to  
43 read as follows:

44 2. The Legislature finds and declares that:

45 a. **[Competent adults]** Adults have the fundamental right, in  
46 collaboration with their health care providers, to control decisions  
47 about their own health care unless they lack the mental capacity to  
48 do so. This State recognizes, in its law and public policy, the

1 personal right of the individual patient to make voluntary, informed  
2 choices to accept, to reject, or to choose among alternative courses  
3 of medical and surgical treatment.

4 b. Modern advances in science and medicine have made  
5 possible the prolongation of the lives of many seriously ill  
6 individuals, without always offering realistic prospects for  
7 improvement or cure. For some individuals, the possibility of  
8 extended life is experienced as meaningful and of benefit. For  
9 others, artificial prolongation of life may seem to provide nothing  
10 medically necessary or beneficial, serving only to extend suffering  
11 and prolong the dying process. This State recognizes the inherent  
12 dignity and value of human life and within this context recognizes  
13 the fundamental right of individuals to make health care decisions  
14 to have life-prolonging medical or surgical means or procedures  
15 provided, withheld, or withdrawn.

16 c. In order that the right to control decisions about one's own  
17 health care should not be lost in the event a patient loses decision  
18 making capacity and is no longer able to participate actively in  
19 making **[his own]** such health care decisions, this State recognizes  
20 the right of **[competent]** adults, who have the mental capacity, to  
21 plan ahead for health care decisions through the execution of  
22 advance directives, such as living wills and durable powers of  
23 attorney, and to have the wishes expressed therein respected,  
24 subject to certain limitations.

25 d. The right of individuals to forego life-sustaining measures is  
26 not absolute and is subject to certain interests of society. The most  
27 significant of these societal interests is the preservation of life,  
28 understood to embrace both an interest in preserving the life of the  
29 particular patient and a related but distinct interest in preserving the  
30 sanctity of all human life as an enduring social value. A second,  
31 closely related societal interest is the protection of individuals from  
32 direct and purposeful self-destruction, motivated by a specific intent  
33 to die. A third interest is the protection of innocent third parties  
34 who may be harmed by the patient's decision to forego therapy; this  
35 interest may be asserted to prevent the emotional and financial  
36 abandonment of the patient's minor children or to protect the  
37 paramount concerns of public health or safety. A fourth interest  
38 encompasses safeguarding the ethical integrity of the health care  
39 professions, individual professionals, and health care institutions,  
40 and maintaining public confidence and trust in the integrity and  
41 caring role of health care professionals and institutions. Finally,  
42 society has an interest in ensuring the soundness of health care  
43 decision making, including both protecting vulnerable patients from  
44 potential abuse or neglect and facilitating the exercise of informed  
45 and voluntary patient choice.

46 e. In accordance with these State interests, this State expressly  
47 rejects on both legal and moral grounds the practice of active  
48 euthanasia. No individual shall have the right to, nor shall any

1 physician or other health care professional be authorized to engage  
2 in, the practice of active euthanasia.

3 f. In order to assure respect for patients' previously expressed  
4 wishes when the capacity to participate actively in decision making  
5 has been lost or impaired; to facilitate and encourage a sound  
6 decision making process in which patients, health care  
7 representatives, families, physicians, and other health care  
8 professionals are active participants; to properly consider patients'  
9 interests both in self-determination and in well-being; and to  
10 provide necessary and appropriate safeguards concerning the  
11 termination of life-sustaining treatment for **[incompetent]** patients  
12 who lack mental capacity as the law and public policy of this State,  
13 the Legislature hereby enacts the New Jersey Advance Directives  
14 for Health Care Act.  
15 (cf: P.L.1991, c.201, s.2)

16  
17 64. Section 3 of P.L.1991, c.201 (C.26:2H-55) is amended to  
18 read as follows:

19 3. As used in **[this act]** P.L.1991, c.201 (C.26:2H-53 et seq.):

20 "Adult" means an individual **[18 years of age or older]** who has  
21 reached majority pursuant to section 3 of P.L.1972, c.81 (C.9:17B-  
22 3).

23 "Advance directive for health care" or "advance directive" means  
24 a writing executed in accordance with the requirements of **[this act]**  
25 P.L.1991, c.201. An "advance directive" may include a proxy  
26 directive or an instruction directive, or both.

27 "Attending physician" means the physician selected by, or  
28 assigned to, the patient who has primary responsibility for the  
29 treatment and care of the patient.

30 "Decision making capacity" means a patient's ability to  
31 understand and appreciate the nature and consequences of health  
32 care decisions, including the benefits and risks of each, and  
33 alternatives to any proposed health care, and to reach an informed  
34 decision. A patient's decision making capacity is evaluated relative  
35 to the demands of a particular health care decision.

36 "Declarant" means **[a competent]** an adult who **[executes]** has  
37 the mental capacity to execute an advance directive and does so.

38 "Do not resuscitate order" means a physician's written order not  
39 to attempt cardiopulmonary resuscitation in the event the patient  
40 suffers a cardiac or respiratory arrest.

41 "Emergency care" means immediate treatment provided in  
42 response to a sudden, acute, and unanticipated medical crisis in  
43 order to avoid injury, impairment, or death.

44 "Health care decision" means a decision to accept or to refuse  
45 any treatment, service, or procedure used to diagnose, treat, or care  
46 for a patient's physical or mental condition, including life-sustaining  
47 treatment. "Health care decision" also means a decision to accept  
48 or to refuse the services of a particular physician, nurse, other

1 health care professional or health care institution, including a  
2 decision to accept or to refuse a transfer of care.

3 "Health care institution" means all institutions, facilities, and  
4 agencies licensed, certified, or otherwise authorized by State law to  
5 administer health care in the ordinary course of business, including  
6 hospitals, nursing homes, residential health care facilities, home  
7 health care agencies, hospice programs operating in this State,  
8 mental health institutions, facilities or agencies, or institutions,  
9 facilities, and agencies for the developmentally disabled. The term  
10 "health care institution" shall not be construed to include "health  
11 care professionals" as defined in **[this act]** P.L.1991, c.201.

12 "Health care professional" means an individual licensed by this  
13 State to administer health care in the ordinary course of business or  
14 practice of a profession.

15 "Health care representative" means the individual designated by  
16 a declarant pursuant to the proxy directive part of an advance  
17 directive for the purpose of making health care decisions on the  
18 declarant's behalf, and includes an individual designated as an  
19 alternate health care representative who is acting as the declarant's  
20 health care representative in accordance with the terms and order of  
21 priority stated in an advance directive.

22 "Instruction directive" means a writing which provides  
23 instructions and direction regarding the declarant's wishes for health  
24 care in the event that the declarant subsequently lacks decision  
25 making capacity.

26 "Life-sustaining treatment" means the use of any medical device  
27 or procedure, artificially provided fluids and nutrition, drugs,  
28 surgery, or therapy that uses mechanical or other artificial means to  
29 sustain, restore, or supplant a vital bodily function, and thereby  
30 increase the expected life span of a patient.

31 "Other health care professionals" means health care professionals  
32 other than physicians and nurses.

33 "Patient" means an individual who is under the care of a  
34 physician, nurse, or other health care professional.

35 "Permanently unconscious" means a medical condition that has  
36 been diagnosed in accordance with currently accepted medical  
37 standards and with reasonable medical certainty as total and  
38 irreversible loss of consciousness and capacity for interaction with  
39 the environment. The term "permanently unconscious" includes  
40 without limitation a persistent vegetative state or irreversible coma.

41 "Physician" means an individual licensed to practice medicine  
42 and surgery in this State.

43 "Proxy directive" means a writing which designates a health care  
44 representative in the event the declarant subsequently lacks decision  
45 making capacity.

46 "State" means a state, territory, or possession of the United  
47 States, the District of Columbia, or the Commonwealth of Puerto  
48 Rico.



1 "Terminal condition" means the terminal stage of an irreversibly  
2 fatal illness, disease, or condition. A determination of a specific  
3 life expectancy is not required as a precondition for a diagnosis of a  
4 "terminal condition," but a prognosis of a life expectancy of six  
5 months or less, with or without the provision of life-sustaining  
6 treatment, based upon reasonable medical certainty, shall be  
7 deemed to constitute a terminal condition.

8 (cf: P.L.1991, c.201, s.3)

9

10 65. Section 5 of P.L.1991, c.201 (C.26:2H-57) is amended to  
11 read as follows:

12 5. a. A declarant may reaffirm or modify either a proxy  
13 directive, or an instruction directive, or both. The reaffirmation or  
14 modification shall be made in accordance with the requirements for  
15 execution of an advance directive pursuant to section 4 of **[this act]**  
16 P.L.1991, c.201 (C.26:2H-56).

17 b. A declarant may revoke an advance directive, including a  
18 proxy directive, or an instruction directive, or both, by the  
19 following means:

20 (1) Notification, orally or in writing, to the health care  
21 representative, physician, nurse, or other health care professional,  
22 or other reliable witness, or by any other act evidencing an intent to  
23 revoke the document; or

24 (2) Execution of a subsequent proxy directive or instruction  
25 directive, or both, in accordance with section 4 of **[this act]**  
26 P.L.1991, c.201 (C.26:2H-56).

27 c. Designation of the declarant's spouse as health care  
28 representative shall be revoked upon divorce or legal separation,  
29 and designation of the declarant's domestic partner as defined in  
30 section 3 of P.L.2003, c.246 (C.26:8A-3) as health care  
31 representative shall be revoked upon termination of the declarant's  
32 domestic partnership or designation of the declarant's partner in a  
33 civil union as defined in section 2 of P.L.2006, c.103 (C.37:1-29)  
34 shall be revoked upon termination of the declarant's civil union,  
35 unless otherwise specified in the advance directive.

36 d. **[An incompetent]** A patient who lacks mental capacity may  
37 suspend an advance directive, including a proxy directive, an  
38 instruction directive, or both, by any of the means stated in  
39 paragraph (1) of subsection b. of this section. **[An incompetent]** A  
40 patient who lacks mental capacity and has suspended an advance  
41 directive may reinstate that advance directive by oral or written  
42 notification to the health care representative, physician, nurse, or  
43 other health care professional of an intent to reinstate the advance  
44 directive.

45 e. Reaffirmation, modification, revocation, or suspension of an  
46 advance directive is effective upon communication to any person  
47 capable of transmitting the information including the health care

1 representative, the attending physician, nurse, or other health care  
2 professional responsible for the patient's care.  
3 (cf: P.L.2003, c.246, s.28)

4

5 66. Section 6 of P.L.1991, c.201 (C.26:2H-58) is amended to  
6 read as follows:

7 6. a. A declarant may execute a proxy directive, pursuant to  
8 the requirements of section 4 of **[this act]** P.L.1991, c.201  
9 (C.26:2H-56), designating **[a competent]** an adult with mental  
10 capacity to act as **[his]** the declarant's health care representative.

11 (1) **[A competent]** An adult who has mental capacity, including,  
12 but not limited to, a declarant's spouse, partner in a civil union as  
13 defined in section 2 of P.L.2006, c.103 (C.37:1-29), domestic  
14 partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3),  
15 adult child, parent, or other family member, friend, religious or  
16 spiritual advisor, or other person of the declarant's choosing, may  
17 be designated as a health care representative.

18 (2) An operator, administrator, or employee of a health care  
19 institution in which the declarant is a patient or resident shall not  
20 serve as the declarant's health care representative unless the  
21 operator, administrator, or employee is related to the declarant by  
22 blood, marriage, domestic partnership, civil union, or adoption.

23 This restriction does not apply to a physician, if the physician  
24 does not serve as the patient's attending physician and the patient's  
25 health care representative at the same time.

26 (3) A declarant may designate one or more alternate health care  
27 representatives, listed in order of priority. In the event the primary  
28 designee is unavailable, unable, or unwilling to serve as health care  
29 representative, or is disqualified from such service pursuant to this  
30 section or any other law, the next designated alternate shall serve as  
31 health care representative. In the event the primary designee  
32 subsequently becomes available and able to serve as health care  
33 representative, the primary designee may, insofar as then  
34 practicable, serve as health care representative.

35 (4) A declarant may direct the health care representative to  
36 consult with specified individuals, including alternate designees,  
37 family members, and friends, in the course of the decision making  
38 process.

39 (5) A declarant shall state the limitations, if any, to be placed  
40 upon the authority of the health care representative including the  
41 limitations, if any, which may be applicable if the declarant is  
42 pregnant.

43 b. A declarant may execute an instruction directive, pursuant to  
44 the requirements of section 4 of **[this act]** P.L.1991, c.201  
45 (C.26:2H-56), stating the declarant's general treatment philosophy  
46 and objectives; or the declarant's specific wishes regarding the  
47 provision, withholding, or withdrawal of any form of health care,  
48 including life-sustaining treatment; or both. An instruction

1 directive may, but need not, be executed contemporaneously with,  
2 or be attached to, a proxy directive.  
3 (cf: P.L.2003, c.246, s.29)  
4

5 67. Section 8 of P.L.1991, c.201 (C.26:2H-60) is amended to  
6 read as follows:

7 8. a. The attending physician shall determine whether the  
8 patient lacks capacity to make a particular health care decision. The  
9 determination shall be stated in writing, shall include the attending  
10 physician's opinion concerning the nature, cause, extent, and  
11 probable duration of the patient's incapacity, and shall be made a  
12 part of the patient's medical records.

13 b. The attending physician's determination of a lack of decision  
14 making capacity shall be confirmed by one or more physicians. The  
15 opinion of the confirming physician shall be stated in writing and  
16 made a part of the patient's medical records in the same manner as  
17 that of the attending physician. Confirmation of a lack of decision  
18 making capacity is not required when the patient's lack of decision  
19 making capacity is clearly apparent, and the attending physician and  
20 the health care representative agree that confirmation is  
21 unnecessary.

22 c. If the attending physician or the confirming physician  
23 determines that a patient lacks decision making capacity because of  
24 a mental or psychological impairment or a developmental disability,  
25 and neither the attending physician or the confirming physician has  
26 specialized training or experience in diagnosing mental or  
27 psychological conditions or developmental disabilities of the same  
28 or similar nature, a determination of a lack of decision making  
29 capacity shall be confirmed by one or more physicians with  
30 appropriate specialized training or experience. The opinion of the  
31 confirming physician shall be stated in writing and made a part of  
32 the patient's medical records in the same manner as that of the  
33 attending physician.

34 d. A physician designated by the patient's advance directive as  
35 a health care representative shall not make or confirm the  
36 determination of a lack of decision making capacity.

37 e. The attending physician shall inform the patient, if the  
38 patient has any ability to comprehend that he has been determined  
39 to lack decision making capacity, and the health care representative  
40 that: (1) the patient has been determined to lack decision making  
41 capacity to make a particular health care decision; (2) each has the  
42 right to contest this determination; and (3) each may have recourse  
43 to the dispute resolution process established by the health care  
44 institution pursuant to section 14 of **[this act]** P.L.1991, c.201  
45 (C.26:2H-66).

46 Notice to the patient and the health care representative shall be  
47 documented in the patient's medical records.

48 f. A determination of lack of decision making capacity under  
49 this act is solely for the purpose of implementing an advance

1 directive in accordance with the provisions of this act, and shall not  
2 be construed as a determination of a patient's incapacity [or  
3 incompetence] for any other purpose.

4 g. For purposes of this section, a determination that a patient  
5 lacks decision making capacity shall be based upon, but need not be  
6 limited to, evaluation of the patient's ability to understand and  
7 appreciate the nature and consequences of a particular health care  
8 decision, including the benefits and risks of, and alternatives to, the  
9 proposed health care, and to reach an informed decision.  
10 (cf: P.L.1991, c.201, s.8)

11

12 68. Section 2 of P.L.2005, c.233 (C.26:2H-103) is amended to  
13 read as follows:

14 2. The Legislature finds and declares that:

15 a. This State recognizes, in its law and public policy, a patient's  
16 right to make voluntary, informed choices to accept, reject, or  
17 choose among alternative courses of medical and surgical treatment,  
18 and specifically for [a competent] an adult who has mental capacity  
19 to plan ahead for health care decisions through the execution of an  
20 advance directive for health care, otherwise known as a living will  
21 or durable power of attorney for health care, and to have the wishes  
22 expressed therein respected, subject to certain limitations;

23 b. Advance directives for health care provide a vehicle for  
24 [competent] adults who have mental capacity to operationalize  
25 their fundamental legal right to accept or refuse medical treatment  
26 in the event that they are rendered unable to make decisions and  
27 communicate with a health care provider about their treatment  
28 options because of serious illness, injury, or permanent loss of  
29 mental capacity;

30 c. The issues affecting persons with mental illness and their  
31 psychiatric needs warrant enactment of a separate statute governing  
32 advance directives for these individuals, who: find their civil rights  
33 and due process protections frequently compromised; often lack the  
34 resources, societal supports, and self-esteem needed to make  
35 advance directives for health care work for them; and are  
36 disadvantaged by the fact that many physicians and attorneys are  
37 unaware of the specific issues that typically enter into the decisions  
38 that a person with mental illness may make for himself when in  
39 crisis;

40 d. The provision by statute of advanced directives for mental  
41 health care will assure respect for the rights of patients with mental  
42 illness with respect to the provision of mental health services and  
43 their decision-making in regard thereto; and

44 e. In order to permit a person with mental illness to execute an  
45 advance directive that specifies preferences for mental health  
46 services in the event that the declarant is subsequently determined  
47 to lack decision-making capacity, the Legislature hereby enacts the

1 "New Jersey Advance Directives for Mental Health Care Act."  
2 (cf: P.L.2005, c.233, s.2)

3  
4 69. Section 3 of P.L.2005, c.233 (C.26:2H-104) is amended to  
5 read as follows:

6 3. As used in this act:

7 "Adult" means an individual **[18 years of age or older]** who has  
8 reached majority pursuant to section 3 of P.L.1972, c.81 (C.9:17B-  
9 3).

10 "Advance directive for mental health care" or "advance  
11 directive" means a writing executed in accordance with the  
12 requirements of this act. An "advance directive" may include a  
13 proxy directive or an instruction directive, or both.

14 "Decision-making capacity" means a patient's ability to  
15 understand and appreciate the nature and consequences of mental  
16 health care decisions, including the benefits and risks of each, and  
17 alternatives to any proposed mental health care, and to reach an  
18 informed decision. A patient's decision-making capacity is  
19 evaluated relative to the demands of a particular mental health care  
20 decision.

21 "Declarant" means **[a competent]** an adult who [executes] has  
22 the mental capacity to execute an advance directive for mental  
23 health care and does so.

24 "Domestic partner" means a domestic partner as defined in  
25 section 3 of P.L.2003, c.246 (C.26:8A-3).

26 "Instruction directive" means a writing which provides  
27 instructions and direction regarding the declarant's wishes for  
28 mental health care in the event that the declarant subsequently lacks  
29 decision-making capacity.

30 "Mental health care decision" means a decision to accept or  
31 refuse any treatment, service, or procedure used to diagnose, treat,  
32 or care for a patient's mental condition. "Mental health care  
33 decision" also means a decision to accept or refuse the services of a  
34 particular mental health care professional or psychiatric facility,  
35 including a decision to accept or to refuse a transfer of care.

36 "Mental health care professional" means an individual licensed  
37 or certified by this State to provide or administer mental health care  
38 in the ordinary course of business or practice of a profession.

39 "Mental health care representative" means the individual  
40 designated by a declarant pursuant to the proxy directive part of an  
41 advance directive for mental health care for the purpose of making  
42 mental health care decisions on the declarant's behalf, and includes  
43 an individual designated as an alternate mental health care  
44 representative who is acting as the declarant's mental health care  
45 representative in accordance with the terms and order of priority  
46 stated in an advance directive for mental health care.

47 "Patient" means an individual who is under the care of a mental  
48 health care professional.

1 "Proxy directive" means a writing which designates a mental  
2 health care representative in the event that the declarant  
3 subsequently lacks decision-making capacity.

4 "Psychiatric facility" means a State psychiatric facility listed in  
5 R.S.30:1-7, a county psychiatric hospital or the psychiatric unit of a  
6 county hospital, a short-term care facility, special psychiatric  
7 hospital or psychiatric unit of a general hospital or other health care  
8 facility licensed by the Department of Health pursuant to P.L.1971,  
9 c.136 (C.26:2H-1 et seq.), or a hospital or community-based mental  
10 health center or other entity licensed or funded by the Department  
11 of Human Services to provide community-based mental health  
12 services.

13 "Responsible mental health care professional" means a person  
14 licensed or certified by the State to provide or administer mental  
15 health care who is selected by, or assigned to, the patient and has  
16 primary responsibility for the care and treatment of the patient.

17 "State" means a state, territory, or possession of the United  
18 States, the District of Columbia, or the Commonwealth of Puerto  
19 Rico.

20 (cf: P.L.2012. c.17, s.248)

21

22 70. Section 5 of P.L.2005, c.233 (C.26:2H-106) is amended to  
23 read as follows:

24 5. a. (1) An advance directive for mental health care shall be  
25 deemed to be valid for an indefinite period of time if it does not  
26 include an expiration date, subject to a declarant's right to modify,  
27 revoke, or suspend the advance directive in accordance with the  
28 provisions of this section.

29 (2) If an advance directive includes an expiration date that  
30 occurs during a period of time in which the declarant has been  
31 determined by the responsible mental health care professional to  
32 lack the capacity to make a particular mental health care decision,  
33 the advance directive shall remain in effect until the declarant is  
34 determined by the responsible mental health care professional to  
35 have regained the capacity to make a particular mental health care  
36 decision.

37 b. A declarant may state in an advance directive for mental  
38 health care, including a proxy directive or an instruction directive,  
39 or both, whether the declarant wishes to be able to modify, revoke  
40 or suspend the advance directive after it has become operative  
41 pursuant to section 7 of **[this act]** P.L.2005, c.233 (C.26:2H-108);  
42 however, the failure to include such a statement in the advance  
43 directive shall not be construed to prevent the declarant from  
44 modifying, revoking or suspending the advance directive under the  
45 circumstances described in this subsection.

46 c. A declarant may reaffirm or modify an advance directive for  
47 mental health care, including a proxy directive or an instruction  
48 directive, or both, subject to the provisions of subsection b. of this  
49 section. The reaffirmation or modification shall be made in

1 accordance with the requirements for execution of an advance  
2 directive for mental health care pursuant to section 4 of **[this act]**  
3 P.L.2005, c.233 (C.26:2H-105).

4 d. A declarant may revoke an advance directive for mental  
5 health care, including a proxy directive or an instruction directive,  
6 or both, subject to the provisions of subsection b. of this section, by  
7 the following means:

8 (1) notification, orally or in writing, to the mental health care  
9 representative or mental health care professional, or other reliable  
10 witness, or by any other act evidencing an intent to revoke the  
11 document; or

12 (2) execution of a subsequent proxy directive or instruction  
13 directive, or both, in accordance with section 4 of **[this act]**  
14 P.L.2005, c.233 (C.26:2H-105).

15 e. Designation of the declarant's spouse as mental health care  
16 representative shall be revoked upon divorce or legal separation,  
17 and designation of the declarant's domestic partner as mental health  
18 care representative shall be revoked upon termination of the  
19 declarant's domestic partnership or designation of the declarant's  
20 civil union partner as mental health care representative shall be  
21 revoked upon termination of the declarant's civil union, unless  
22 otherwise specified in the advance directive.

23 f. An inpatient in a psychiatric facility may modify, revoke, or  
24 suspend an advance directive for mental health care, including a  
25 proxy directive or an instruction directive, or both, by any of the  
26 means stated in paragraph (1) of subsection d. of this section, unless  
27 a responsible mental health professional determines, in accordance  
28 with the provisions of section 8 of **[this act]** P.L.2005, c.233  
29 (C.26:2H-109), that the patient lacks decision-making capacity to  
30 make the decision to modify, revoke, or suspend the advance  
31 directive. A patient who has modified, revoked, or suspended an  
32 advance directive may reinstate that advance directive by oral or  
33 written notification to the mental health care representative or  
34 mental health care professional of an intent to reinstate the advance  
35 directive.

36 g. Reaffirmation, modification, or revocation of an advance  
37 directive for mental health care is effective upon communication to  
38 any person capable of transmitting the information, including the  
39 mental health care representative or mental health care professional  
40 responsible for the patient's care.

41 (cf: P.L.2005, c.233, s.5)

42

43 71. Section 6 of P.L.2005, c.233 (C.26:2H-107) is amended to  
44 read as follows:

45 6. a. A declarant may execute a proxy directive, pursuant to  
46 the requirements of section 4 of **[this act]** P.L.2005, c.233  
47 (C.26:2H-105), designating **[a competent]** an adult who has mental  
48 capacity to act as the declarant's mental health care representative.

1 (1) **[A competent]** An adult who has mental capacity, including,  
2 but not limited to, a declarant's spouse, domestic partner, civil union  
3 partner, adult child, parent, or other family member, friend,  
4 religious or spiritual advisor, or other person of the declarant's  
5 choosing, may be designated as a mental health care representative.

6 (2) An operator, administrator, or employee of a psychiatric  
7 facility in which the declarant is a patient or resident shall not serve  
8 as the declarant's mental health care representative unless the  
9 operator, administrator, or employee is related to the declarant by  
10 blood, marriage, domestic partnership, civil union, or adoption.

11 This restriction shall not apply to a mental health care  
12 professional if that individual does not serve as the patient's  
13 responsible mental health care professional or other provider of  
14 mental health care services to the patient and the patient's mental  
15 health care representative at the same time.

16 (3) A declarant may designate one or more alternate mental  
17 health care representatives, listed in order of priority. In the event  
18 that the primary designee is unavailable, unable, or unwilling to  
19 serve as mental health care representative, or is disqualified from  
20 such service pursuant to this section or any other law, the next  
21 designated alternate shall serve as mental health care representative.  
22 In the event that the primary designee subsequently becomes  
23 available and able to serve as mental health care representative, the  
24 primary designee may, insofar as then practicable, serve as mental  
25 health care representative.

26 (4) A declarant may direct the mental health care representative  
27 to consult with specified individuals, including alternate designees,  
28 family members, and friends, in the course of the decision-making  
29 process.

30 (5) A declarant shall state the limitations, if any, to be placed  
31 upon the authority of the mental health care representative.

32 (6) If a declarant explicitly authorizes the mental health care  
33 representative to consent to the declarant's admission to a  
34 psychiatric facility, the declarant shall separately initial each  
35 paragraph in which that authorization is granted at the time that the  
36 proxy directive is signed and witnessed.

37 b. A declarant may execute an instruction directive, pursuant to  
38 the requirements of section 4 of **[this act]** P.L.2005, c.233  
39 (C.26:2H-105), which specifies preferences for mental health  
40 services in the event that the declarant is subsequently determined  
41 to lack decision-making capacity.

42 (1) The instruction directive may include: a statement of the  
43 declarant's general mental health care philosophy and objectives;  
44 the declarant's specific wishes regarding the provision, withholding,  
45 or withdrawal of any form of mental health care; or both.

46 (2) The declarant's specific wishes regarding the provision,  
47 withholding, or withdrawal of any form of mental health care may  
48 include:



- 1 (a) the identification of mental health care professionals and
  - 2 programs and psychiatric facilities that the declarant would prefer
  - 3 to provide mental health services;
  - 4 (b) consent to admission to a psychiatric facility for up to a
  - 5 specified number of days;
  - 6 (c) a refusal to accept specific types of mental health treatment,
  - 7 including medications;
  - 8 (d) a statement of medications preferred by the declarant for
  - 9 mental health treatment;
  - 10 (e) a statement of the preferred means of crisis intervention or
  - 11 other preferences for mental health treatment; and
  - 12 (f) additional instructions or information concerning mental
  - 13 health care.
- 14 (3) An instruction directive may, but need not, be executed
- 15 contemporaneously with, or be attached to, a proxy directive.
- 16 (cf: P.L.2005, c.233, s.6)

17

18 72. Section 8 of P.L.2005, c.233 (C.26:2H-109) is amended to

19 read as follows:

- 20 8. a. The responsible mental health care professional shall
- 21 determine whether the patient lacks the capacity to make a
- 22 particular mental health care decision. The determination shall: be
- 23 stated in writing; include the responsible mental health care
- 24 professional's opinion concerning the nature, cause, extent, and
- 25 probable duration of the patient's incapacity; and be made a part of
- 26 the patient's medical records.
- 27 b. The responsible mental health care professional's
- 28 determination of a lack of decision-making capacity shall be
- 29 confirmed by one or more mental health care professionals. The
- 30 opinion of the confirming mental health care professional shall be
- 31 stated in writing and made a part of the patient's medical records in
- 32 the same manner as that of the responsible mental health care
- 33 professional.
- 34 c. A mental health care professional designated by the patient's
- 35 advance directive as a mental health care representative shall not
- 36 make the determination of a lack of decision-making capacity.
- 37 d. The responsible mental health care professional shall inform
- 38 the patient, if the patient has any ability to comprehend that he has
- 39 been determined to lack decision-making capacity, and the mental
- 40 health care representative that:
- 41 (1) the patient has been determined to lack decision-making
  - 42 capacity to make a particular mental health care decision;
  - 43 (2) each has the right to contest this determination; and
  - 44 (3) each may have recourse to the dispute resolution process
  - 45 established by the psychiatric facility pursuant to section 14 of **[this**
  - 46 **act]** P.L.2005, c.223 (C.26:2H-115). Notice to the patient and the
  - 47 mental health care representative shall be documented in the
  - 48 patient's medical records.

1 e. A determination of lack of decision-making capacity under  
2 this act shall be solely for the purpose of implementing an advance  
3 directive for mental health care in accordance with the provisions of  
4 this act, and shall not be construed as a determination of a patient's  
5 incapacity [or incompetence] for any other purpose.

6 f. For the purposes of this section, a determination that a  
7 patient lacks decision-making capacity shall be based upon, but  
8 need not be limited to, an evaluation of the patient's ability to  
9 understand and appreciate the nature and consequences of a  
10 particular mental health care decision, including the benefits and  
11 risks of, and alternatives to, the proposed mental health care, and to  
12 reach an informed decision.

13 g. For the purposes of this section, "mental health care  
14 decision" includes a decision to modify, revoke, or suspend an  
15 advance directive for mental health care as provided in subsection f.  
16 of section 5 of [this act] P.L.2005, c.233 (C.26:2H-106).

17 (cf: P.L.2005, c.233, s.8)

18

19 73. Section 4 of P.L.1989, c.303 (C.26:5C-8) is amended to read  
20 as follows:

21 4. a. The content of a record referred to in section 3 of [this  
22 act] P.L.1989, c.303 (C.26:5C-7) may be disclosed in accordance  
23 with the prior written informed consent of the person who is the  
24 subject of the record or if the person is [legally incompetent]  
25 adjudicated incapacitated or deceased, in accordance with section 8  
26 of [this act] P.L.1989, c.303 (C.26:5C-12).

27 b. If the prior written consent of the person who is the subject  
28 of the record is not obtained, the person's records shall be disclosed  
29 only under the following conditions:

30 (1) To qualified personnel for the purpose of conducting  
31 scientific research, but a record shall be released for research only  
32 following review of the research protocol by an Institutional  
33 Review Board constituted pursuant to federal regulation 45 C.F.R.  
34 s. 46.101 et seq. The person who is the subject of the record shall  
35 not be identified, directly or indirectly, in any report of the research  
36 and research personnel shall not disclose the person's identity in any  
37 manner.

38 (2) To qualified personnel for the purpose of conducting  
39 management audits, financial audits, or program evaluation, but the  
40 personnel shall not identify, directly or indirectly, the person who is  
41 the subject of the record in a report of an audit or evaluation, or  
42 otherwise disclose the person's identity in any manner. Identifying  
43 information shall not be released to the personnel unless it is vital to  
44 the audit or evaluation.

45 (3) To qualified personnel involved in medical education or in  
46 the diagnosis and treatment of the person who is the subject of the  
47 record. Disclosure is limited to only personnel directly involved in  
48 medical education or in the diagnosis and treatment of the person.

1 (4) To the department as required by State or federal law.

2 (5) As permitted by rules and regulations adopted by the  
3 commissioner for the purposes of disease prevention and control.

4 (6) In all other instances authorized by State or federal law.

5 (cf: P.L.1989, c.303, s.4)

6

7 74. Section 8 of P.L.1989, c.303 (C.26:5C-12) is amended to  
8 read as follows:

9 8. When consent is required for disclosure of the record of a  
10 deceased or legally **[incompetent]** incapacitated person who has or  
11 is suspected of having AIDS or HIV infection, consent may be  
12 obtained:

13 a. From an executor, administrator of the estate, or authorized  
14 representative of the legally **[incompetent]** incapacitated or  
15 deceased person;

16 b. From the person's spouse, domestic partner as defined in  
17 section 3 of P.L.2003, c.246 (C.26:8A-3), primary caretaking  
18 partner or, if none, by another member of the person's family; and

19 c. From the commissioner in the event that a deceased person  
20 has neither an authorized representative or next-of-kin.

21 (cf: P.L.2003, c.246, s.30)

22

23 75. R.S.30:1-18 is amended to read as follows:

24 R.S.30:1-18. No provision of this Title shall restrain or abridge  
25 the power and authority of the Superior Court over the persons and  
26 property of **[the incompetent or]** persons who are mentally ill or  
27 incapacitated.

28 (cf: P.L.1965, c.59, s.5)

29

30 76. R.S.30:4-1 is amended to read as follows:

31 R.S.30:4-1. The State board, with the approval of the Governor,  
32 shall appoint a board of trustees for each State institution or agency  
33 **[within the department]** or for each group or class thereof as it may  
34 determine, from residents of the State without respect to political  
35 affiliation or belief.

36 **[Whenever]** The State board, with the approval of the Governor,  
37 may appoint a board of trustees or authorize or designate an  
38 existing board of trustees whenever the establishment or assumption  
39 of jurisdiction over an additional institution, or the acquisition of  
40 **[a]** an institutional site **[therefor]**, is authorized by the Legislature  
41 **[the State board, with the approval of the Governor, may appoint a**  
42 **board of trustees therefor or may authorize or designate any existing**  
43 **board of trustees to assume jurisdiction thereof].**

44 Each board of trustees of an institution shall be known as "the  
45 board of trustees" naming the institution or group or class for which  
46 the board is appointed. The State board, with the approval of the  
47 Governor, shall **[determine the names of]** name the boards of  
48 noninstitutional agencies.

1 Except as otherwise specifically provided by statute, the boards  
2 of trustees shall consist of not less than five nor more than seven  
3 members **[appointed with the approval of the Governor from**  
4 **residents of the State at large without respect to political affiliation**  
5 **or belief]**. At least two women shall be members of each board in  
6 charge of **[the Training School for Boys, Jamesburg, the Home for**  
7 **Disabled Soldiers, Sailors, Marines and their Wives and Widows,**  
8 **and]** the institutions or agencies for **[the] persons who are blind,**  
9 **[feble-minded, the epileptic and the insane] or who have a mental**  
10 **illness or developmental disability,** and at least two members of the  
11 Commission for the Blind and Visually Impaired shall themselves  
12 be legally blind but **[they shall] not [be] employees, or related to**  
13 **an employee** by blood, marriage, or adoption **[to any employee, or**  
14 **related to an employee of said commission. At least a majority of**  
15 **the members of each board in charge of the Training School for**  
16 **Girls, Trenton, and the women's reformatory shall be women].**

17 The term of each board member shall be **[3] three** years  
18 commencing on July 1 and ending on June 30, of the third year  
19 thereafter. A vacancy shall be filled by the State board, with the  
20 approval of the Governor, for the unexpired term only.

21 The members of new or additional boards of trustees shall at the  
22 time of their appointment be divided into groups so that the terms of  
23 two members shall expire on June 30 of the year next succeeding  
24 appointment; the terms of two others on June 30 of the second year  
25 succeeding appointment; the term of the fifth member and in case of  
26 larger boards the term of the sixth member, on June 30 of the third  
27 year succeeding appointment; the term of the seventh member of a  
28 board having seven members, on June 30 of the fourth year  
29 succeeding appointment. Their successors shall be appointed for  
30 **[3-year] three-year** terms.

31 The members of **[such] boards of trustees** shall receive no  
32 compensation for services but shall be reimbursed for actual  
33 expenditures incurred in the performance of duty. They shall be  
34 subject to removal by the State board, with the approval of the  
35 Governor, at any time for good and sufficient cause.

36 **[On] Annually, on** or before July 1 **[of each year] each [such]**  
37 **board of trustees shall [reorganize by the election] elect** from  
38 **[among] its members [of] a [chairman and vice chairman] chair**  
39 **and vice chair** and shall appoint a secretary, with the approval of the  
40 chief executive officer of the institution, who shall be an employee  
41 of the **[department] institution or agency** and **[shall] serve** at the  
42 pleasure of the board without additional compensation. The term of  
43 office of the **[chairman and vice chairman] chair and vice chair**  
44 shall be until June 30 of the following year or until their successors  
45 are elected and qualified.

46 (cf: P.L.1977, c.63, s.12)

1       77. Section 1 of 1969, c.181 (C.30:4-7.1) is amended to read as  
2 follows:

3       1. It is hereby declared to be the public policy of this State to  
4 make maximum provision for the health, safety, and welfare of  
5 **【incompetent】** patients who are incapacitated and residents in State  
6 and county institutions for **【the mentally ill and developmentally**  
7 **disabled】** persons with mental illness and persons with  
8 developmental disabilities, for **【developmentally disabled】** persons  
9 with developmental disabilities who are residents in community-  
10 based alternate living arrangements in the State or in private  
11 facilities both in and outside the State, and for inmates under age 18  
12 in State and county penal and correctional institutions, by  
13 permitting the chief executive officer of **【such】** the institution or  
14 the regional administrator of a Division of Developmental  
15 Disabilities community services region to consent to the utilization  
16 of appropriate medical, psychiatric, surgical, and dental treatment  
17 for **【such】** the patients, inmates, and residents where prescribed by  
18 a licensed physician or dentist as provided for herein.

19 (cf: P.L.1997, c.208, s.1)

20

21       78. Section 2 of P.L.1969, c.181 (C.30:4-7.2) is amended to read  
22 as follows:

23       2. The chief executive officer of a State or county **【institution**  
24 **for the mentally ill or developmentally disabled, of】** psychiatric  
25 hospital or developmental center, a State or county penal or  
26 correctional institution, **【of】** or a juvenile facility or detention  
27 center, or the regional administrator of a Division of Developmental  
28 Disabilities community services region is hereby authorized to give  
29 consent for medical, psychiatric, surgical, or dental treatment to  
30 **【incompetent】** patients who lack mental capacity, inmates, or  
31 juveniles under age 18, or residents, hospitalized, confined, or  
32 placed by the Division of Developmental Disabilities in  
33 community-based alternate living arrangements in the State or in  
34 private facilities both in and outside the State, under circumstances  
35 where it appears that:

36       **【(a)】** a. **【Such】** The patients, inmates, juveniles, or residents,  
37 because of **【incompetency】** mental incapacity or nonage, are legally  
38 prevented from giving consent to **【such】** the treatment**【,】**; and

39       **【(b)】** b. Either:

40       **【(i)】** (1) there is no parent or guardian known to **【such】** the  
41 officer or administrator, after reasonable inquiry, who **【is**  
42 **competent】** has the mental capacity to give consent for the  
43 treatment of patients, inmates under the age of 18, or residents**【,】** ;  
44 or

45       **【(ii)】** (2) where a parent or guardian, after reasonable notice of  
46 the proposed treatment and a request for consent, and prior to the  
47 date fixed in **【such】** the notice for the rendering of **【said】** the

1 treatment, refuses or neglects to execute and submit to **[such]** the  
2 officer or administrator a writing expressing either the grant or  
3 denial of **[such]** the consent**[,]**; and

4 **[(c)]** c. Where a licensed physician, psychiatrist, surgeon, or  
5 dentist certifies that the treatment to be performed is essential and  
6 beneficial to the general health and welfare of **[such]** the patient,  
7 inmate, or resident, or will improve **[his]** the opportunity for  
8 recovery or prolong or save **[his]** the person's life.

9 (cf: P.L.1997, c.208, s.2)

10

11 79. Section 10 of P.L.1965, c.59 (C.30:4-24.2) is amended to  
12 read as follows:

13 10. a. Subject to any other provisions of law and the  
14 **[Constitution]** Constitutions of New Jersey and the United States,  
15 no patient shall be deprived of any civil right solely **[by reason of**  
16 **his receiving]** because of receipt of treatment under the provisions  
17 of this Title nor shall **[such]** the treatment modify or vary any legal  
18 or civil right of any **[such]** patient, including, but not limited to, the  
19 right to register for and to vote at elections, or rights relating to the  
20 granting, forfeiture, or denial of a license, permit, privilege, or  
21 benefit pursuant to any law.

22 b. Every patient in treatment shall be entitled to all rights set  
23 forth in **[this act]** P.L.1965, c.59 and shall retain all rights not  
24 specifically denied him under this Title. A notice of the rights set  
25 forth in **[this act]** P.L.1965, c.59 shall be given to every patient  
26 within **[5]** five days of **[his]** admission to treatment. **[Such]** The  
27 notice shall be **[in writing and]** written in simple understandable  
28 language. It shall be in a language the patient understands and if the  
29 patient cannot read the notice, it shall be read to **[him]** the patient.  
30 **[In the case of an]** If a patient is adjudicated **[incompetent patient]**  
31 incapacitated, **[such procedure shall be followed for the patient's**  
32 **guardian]** the notice shall be given to the patient's guardian.  
33 Receipt of this notice shall be acknowledged in writing, with a copy  
34 placed in the patient's file. If the patient or guardian refuses to  
35 acknowledge receipt of the notice, the person delivering the notice  
36 shall state this in writing, with a copy placed in the patient's file.

37 c. No patient may be presumed to be **[incompetent]**  
38 incapacitated because **[he has been examined or treated]** of an  
39 examination or treatment for mental illness, regardless of whether  
40 **[such]** the evaluation or treatment was voluntarily or involuntarily  
41 received. **[Any]** A patient who leaves a mental health program  
42 following evaluation or treatment for mental illness, regardless of  
43 whether that evaluation or treatment was voluntarily or  
44 involuntarily received, shall be given a written statement of the  
45 substance of **[this act]** P.L.1965, c.59.

1 d. Each patient in treatment shall have the following rights, a  
2 list of which shall be prominently posted in all facilities providing  
3 **[such]** these services and otherwise brought to **[his]** the patient's  
4 attention by **[such]** additional means as the department may  
5 designate:

6 (1) To be free from unnecessary or excessive medication. No  
7 medication shall be administered unless at the written order of a  
8 physician. Notation of each patient's medication shall be kept in  
9 **[his]** the patient's treatment records. At least weekly, the attending  
10 physician shall review the drug regimen of each patient under **[his]**  
11 the physician's care. All physician's orders or prescriptions shall be  
12 written with a termination date, which shall not exceed 30 days.  
13 Medication shall not be used as punishment, for the convenience of  
14 staff, as a substitute for a treatment program, or in quantities that  
15 interfere with the patient's treatment program. Voluntarily  
16 committed patients shall have the right to refuse medication.

17 (2) Not to be subjected to experimental research, shock  
18 treatment, psychosurgery, or sterilization, without the express and  
19 informed consent of the patient after consultation with counsel or  
20 interested party of the patient's choice. **[Such]** The consent shall  
21 be **[made]** in writing, a copy of which shall be placed in the  
22 patient's treatment record. If the patient has been adjudicated  
23 **[incompetent]** incapacitated, a court of competent jurisdiction shall  
24 **[hold a hearing to]** determine the necessity of **[such]** the procedure  
25 **[at which]** at a hearing where the client is physically present,  
26 represented by counsel, and provided the right and opportunity to be  
27 confronted with and to cross-examine **[all]** witnesses alleging the  
28 necessity of **[such]** the procedures. In **[such]** these proceedings,  
29 the burden of proof shall be on the party alleging the necessity of  
30 **[such]** the procedures. **[In the event that]** If a patient cannot afford  
31 counsel, the court shall appoint an attorney not less than 10 days  
32 before the hearing. An attorney so appointed shall be entitled to a  
33 reasonable fee to be determined by the court and paid by the county  
34 from which the patient was admitted. Under no circumstances may  
35 a patient in treatment be subjected to experimental research **[which**  
36 **is]** not directly related to the specific goals of **[his]** the patient's  
37 treatment program.

38 (3) To be free from physical restraint and isolation. Except for  
39 emergency situations, in which a patient has caused substantial  
40 property damage or **[has]** attempted to harm himself or others and  
41 in which less restrictive means of restraint are not feasible, a patient  
42 may be physically restrained or placed in isolation, only on a  
43 medical director's written order or that of **[his]** the director's  
44 physician designee which explains the rationale for **[such]** the  
45 action. The written order may be entered only after the medical  
46 director or **[his]** physician designee has personally seen the patient  
47 **[concerned]**, and evaluated **[whatever]** the episode or situation **[is]**

1 said to require] causing the need for restraint or isolation.  
2 Emergency use of restraints or isolation shall be for no more than  
3 ~~1~~ one hour, by which time the medical director or ~~his~~ physician  
4 designee shall have been consulted and shall have entered an  
5 appropriate written order ~~in writing~~. ~~Such~~ The written order  
6 shall be effective for no more than 24 hours and shall be renewed if  
7 restraint and isolation are continued. While in restraint or isolation,  
8 the patient must be bathed every 12 hours and checked by an  
9 attendant every ~~2~~ two hours ~~with a notation in writing of such~~  
10 ~~checks placed~~ , which actions shall be noted in the patient's  
11 treatment record along with the order for restraint or isolation.

12 (4) To be free from corporal punishment.

13 e. Each patient receiving treatment pursuant to this Title, shall  
14 have the following rights, a list of which shall be prominently  
15 posted in all facilities providing ~~such~~ these services and  
16 otherwise brought to ~~his~~ the patient's attention by ~~such~~  
17 additional means as the commissioner may designate:

18 (1) To privacy and dignity.

19 (2) To the least restrictive conditions necessary to achieve the  
20 purposes of treatment.

21 (3) To wear ~~his~~ the patient's own clothes; to keep and use  
22 ~~his~~ personal possessions including ~~his~~ toilet articles; and to  
23 keep and be allowed to spend a reasonable sum of ~~his own~~ money  
24 for canteen expenses and small purchases.

25 (4) To have access to individual storage space for ~~his~~ private  
26 use.

27 (5) To see visitors each day.

28 (6) To have reasonable access to and use of telephones, both to  
29 make and receive confidential calls.

30 (7) To have ready access to letter writing materials, including  
31 stamps, and to mail and receive unopened correspondence.

32 (8) To regular physical exercise several times a week. It shall  
33 be the duty of the hospital to provide facilities and equipment for  
34 ~~such~~ the exercise.

35 (9) To be outdoors at regular and frequent intervals, in the  
36 absence of medical considerations.

37 (10) To suitable opportunities for interaction with members of  
38 the opposite sex, with adequate supervision.

39 (11) To practice the patient's religion of ~~his~~ choice or abstain  
40 from religious practices. Provisions for ~~such~~ worship shall be  
41 made available to each person on a nondiscriminatory basis.

42 (12) To receive prompt and adequate medical treatment for any  
43 physical ailment.

44 f. Rights designated under subsection d. of this section may  
45 not be denied under any circumstances.

46 g. (1) A patient's rights designated under subsection e. of this  
47 section may be denied for good cause ~~in any instance in which~~



1 when the director of the patient's treatment program [in which the  
2 patient is receiving treatment] feels it is imperative to [deny any of  
3 these rights] do so; provided, however, under no circumstances  
4 shall a patient's right to communicate with [his] the patient's  
5 attorney, physician, or the courts be restricted. Any [such] denial  
6 of a patient's rights shall take effect only after a written notice of  
7 the denial has been filed in the patient's treatment record [and shall  
8 include] , including an explanation of the reason for the denial.

9 (2) A denial of rights shall be effective for a period not to  
10 exceed 30 days and shall be renewed for additional 30-day periods  
11 only by a written statement entered by the director of the program  
12 in the patient's treatment record [which indicates] indicating the  
13 detailed reason for [such] renewal of the denial.

14 (3) In each instance of a denial or a renewal, the patient, [his]  
15 the patient's attorney, [and his] the patient's guardian, if the patient  
16 has been adjudicated [incompetent] incapacitated, and the  
17 department shall be given written notice of the denial or renewal  
18 and the reason [therefor].

19 h. [Any individual] A patient subject to this Title shall be  
20 entitled to a writ of habeas corpus upon proper petition by  
21 [himself] the patient, [by] a relative, or a friend to any court of  
22 competent jurisdiction in the county in which [he] the patient is  
23 detained and shall further be entitled to enforce any of the rights  
24 herein stated by civil action or other remedies otherwise available  
25 by common law or statute.

26 (cf: P.L.1975, c.85, s.2)

27

28 80. Section 14 of P.L.1965, c.59 (C.30:4-25.2) is amended to  
29 read as follows:

30 14. Application for determination of eligibility for functional  
31 services for a person under the age of 21 years who is believed to  
32 have a developmental disability may be made to the commissioner  
33 by:

34 1. [his] the person's parent or guardian;

35 2. a child-caring agency, hospital, clinic, or other appropriate  
36 agency, public or private, or by a physician having care of the  
37 minor, provided the written consent of the parent or guardian or the  
38 Division of Youth and Family Services, under its care and custody  
39 program, has been obtained; or

40 3. a Superior Court, Chancery Division, Family Part having  
41 jurisdiction over the minor.

42 Application for determination of eligibility for any person over  
43 18 years of age for functional services may be made by:

44 a. a person with a developmental disability over 18 years of  
45 age on [his] the person's own behalf;

46 b. the guardian of the person of an adjudicated [mentally  
47 incompetent] incapacitated adult; or

1 c. any court of competent jurisdiction in which the issue of  
2 mental deficiency may have arisen and which finds that it is in the  
3 interest of the person with an alleged mental deficiency to  
4 determine such eligibility.

5 (cf: P.L.2010, c.50, s.33)

6  
7 81. Section 1 of 1991, c.233 (C.30:4-27.11a.) is amended to read  
8 as follows:

9 1. The Legislature finds and declares that:

10 a. It is of paramount public interest to ensure the rights of all  
11 patients in inpatient psychiatric facilities, including those persons  
12 being assessed or receiving treatment on an involuntary basis in  
13 screening services and short-term care facilities as defined in  
14 section 2 of P.L.1987, c.116 (C.30:4-27.2);

15 b. The rights set forth in section 10 of P.L.1965, c.59 (C.30:4-  
16 24.2) apply to any person who has been involuntarily committed to  
17 a State or county psychiatric hospital, a psychiatric unit of a county  
18 hospital, or a special psychiatric hospital in accordance with the  
19 laws of this State;

20 c. Because involuntary assessment and treatment in a screening  
21 service and involuntary commitment to a short-term care facility  
22 involve the deprivation of a patient's liberty, it is necessary to  
23 specify and guarantee by statute the rights to which that patient is  
24 entitled, in a manner similar to that provided for a patient who is  
25 involuntarily committed to a State or county psychiatric hospital, a  
26 psychiatric unit of a county hospital, or a special psychiatric  
27 hospital, while recognizing the administrative, structural, and  
28 staffing features of screening services and short-term care facilities  
29 which are different from State or county psychiatric hospitals,  
30 psychiatric units of county hospitals, or special psychiatric  
31 hospitals, as well as recognizing differences between the  
32 administrative, structural, and staffing features of screening services  
33 and short-term care facilities by providing a separate guarantee of  
34 rights for patients in each of these settings; and

35 d. All patients who are receiving assessment or treatment on an  
36 involuntary basis in screening services and short-term care  
37 facilities, as defined in section 2 of P.L.1987, c.116 (C.30:4-27.2),  
38 are entitled to receive professional treatment of the highest standard  
39 and, unless **[incompetent]** the patient is mentally incapacitated, to  
40 participate in their treatment and discharge planning to the fullest  
41 extent possible.

42 (cf: P.L.1991, c.233, s.1)

43  
44 82. Section 3 of P.L.1991, c.233 (C.30:4-27.11c) is amended to  
45 read as follows:

46 3. a. Subject to any other provisions of law and the  
47 **[Constitution]** Constitutions of New Jersey and the **[Constitution**  
48 **of the]** United States, a patient shall not be deprived of a civil right

1 solely by reason of **[his]** receiving assessment or treatment under  
2 the provisions of P.L.1987, c.116 (C.30:4-27.1 et seq.), nor shall the  
3 assessment or treatment modify or vary a legal or civil right of that  
4 patient, including, but not limited to, the right to register for and to  
5 vote at elections, or rights relating to the granting, forfeiture, or  
6 denial of a license, permit, privilege, or benefit pursuant to any law.

7 b. A patient shall be entitled to all rights set forth in this act  
8 and shall retain all rights not specifically denied **[him]** under  
9 P.L.1987, c.116 (C.30:4-27.1 et seq.) and P.L.1989, c.170  
10 (C.26:2H-12.7 et seq.).

11 c. A patient shall not be presumed to be **[incompetent]**  
12 mentally incapacitated solely because **[he has been examined]** of  
13 an examination or **[treated]** treatment for mental illness.

14 d. A patient shall be entitled to a writ of habeas corpus upon  
15 proper petition by **[himself]** the patient, a relative, or a friend to a  
16 court of competent jurisdiction in the county in which **[he]** the  
17 patient is detained and shall further be entitled to enforce, by civil  
18 action or other remedies otherwise available by common law or  
19 statute, any of the rights provided in **[this act]** P.L.1991, c.233  
20 (C.30:4-27.11a et seq.).

21 (cf: P.L.1991, c.233, s.3)

22

23 83. Section 4 of P.L.1991, c.233 (C.30:4-27.11d) is amended to  
24 read as follows:

25 4. a. A patient in a short-term care facility shall have the  
26 following rights, which shall not be denied under any  
27 circumstances. A list of these rights shall be posted in a  
28 conspicuous place in each room designated for use by a patient and  
29 otherwise brought to the patient's attention pursuant to subsection d.  
30 of this section:

31 (1) To be free from unnecessary or excessive medication.  
32 Medication shall not be administered unless at the written or verbal  
33 order of a physician. A verbal order shall be valid only for a period  
34 of 24 hours, after which a written order for the medication shall be  
35 completed. At least weekly, the attending physician shall review  
36 the drug regimen of each patient under **[his]** the physician's care.  
37 Medication shall be administered in accordance with generally  
38 accepted medical standards as part of a treatment program.  
39 Medication shall not be used as punishment, for the convenience of  
40 staff, as a substitute for a treatment program, or in quantities that  
41 interfere with the patient's treatment program.

42 In an emergency in which less restrictive or appropriate  
43 alternatives acceptable to the patient are not available to prevent  
44 imminent danger to the patient or others, medication may be  
45 administered over a patient's objection at the written order of a  
46 physician, which shall be valid for a period of up to 72 hours, in  
47 order to lessen the danger.

1 A patient's right to refuse medication when imminent danger to  
2 the patient or others is not present may be overridden by a written  
3 policy which has been adopted by the short-term care facility to  
4 protect the patient's right to exercise informed consent to the  
5 administration of medication. The written policy shall, at a  
6 minimum, provide for appropriate procedures that ensure notice to  
7 the patient of the decision by the attending physician or other  
8 designated physician to administer medication, and the right to  
9 question the physician about **[his]** the physician's decision to  
10 administer medication and to provide information to the physician  
11 regarding that decision. The written policy shall also provide for  
12 review of the patient's decision to object to the administration of  
13 medication by a psychiatrist who is not directly involved in the  
14 patient's treatment. The psychiatrist shall not override the patient's  
15 decision to object to the administration of medication unless the  
16 psychiatrist determines that: the patient is incapable, without  
17 medication, of participating in a treatment plan that will provide a  
18 realistic opportunity of improving **[his]** the patient's condition; or,  
19 although it is possible to devise a treatment plan that will provide a  
20 realistic opportunity of improving the patient's condition without  
21 medication, a treatment plan which includes medication would  
22 probably improve the patient's condition within a significantly  
23 shorter time period, or there is a significant possibility that, without  
24 medication, the patient will harm himself or others before  
25 improvement of **[his]** the patient's condition is realized.

26 An adult who has been voluntarily committed to a short-term  
27 care facility shall have the right to refuse medication.

28 (2) Not to be subjected to psychosurgery or sterilization,  
29 without the express and informed, written consent of the patient  
30 after consultation with counsel or interested party of the patient's  
31 choice. A copy of the patient's consent shall be placed in the  
32 patient's treatment record. If the patient has been adjudicated  
33 **[incompetent]** incapacitated, a court of competent jurisdiction shall  
34 hold a hearing to determine the necessity of the procedure. The  
35 patient shall be physically present at the hearing, represented by  
36 counsel, and provided the right and opportunity to be confronted  
37 with and to cross-examine all witnesses alleging the necessity of the  
38 procedure. In these proceedings, the burden of proof shall be on the  
39 party alleging the necessity of the procedure. In the event that a  
40 patient cannot afford counsel, the court shall appoint an attorney not  
41 less than 10 days before the hearing. An attorney so appointed shall  
42 be entitled to a reasonable fee to be determined by the court and  
43 paid by the State.

44 (3) To be free from unnecessary physical restraint and seclusion.  
45 Except for an emergency in which a patient has caused substantial  
46 property damage or has attempted to harm himself or others, or in  
47 which **[his]** the patient's behavior threatens to harm himself or  
48 others, and in which less restrictive means of restraint are not

1 feasible, a patient may be physically restrained or placed in  
2 seclusion only on an attending physician's written order or that of  
3 another designated physician which explains the rationale for that  
4 action. The written order may be given only after the attending  
5 physician or other designated physician has personally seen the  
6 patient, and evaluated the episode or situation that is said to require  
7 restraint or seclusion.

8 In an emergency, the use of restraints or seclusion may be  
9 initiated by a registered professional nurse and shall be for no more  
10 than one hour. Within that hour, the nurse shall consult with the  
11 attending physician or other designated physician and, if continued  
12 restraint or seclusion is determined to be necessary, shall obtain an  
13 order from the attending physician or other designated physician to  
14 continue the use of restraints or seclusion. If an order is given, the  
15 patient shall be reevaluated by the nurse or the attending physician  
16 or other designated physician as to the patient's physical and  
17 psychiatric condition and the need for continuing the restraints or  
18 seclusion at least every two hours until the use of restraints or  
19 seclusion has ended.

20 The patient's attending physician or other designated physician  
21 shall enter a written order approving the continued use of restraints  
22 or seclusion no later than 24 hours after the time that physical  
23 restraint or seclusion began, and only after the physician has  
24 personally seen the patient. A written order by the physician for the  
25 continued use of restraints or seclusion shall be effective for no  
26 more than 24 hours and shall be renewed if restraint and seclusion  
27 are continued. A medical examination of the patient shall be  
28 conducted every 12 hours by a physician.

29 While a patient is in restraints or seclusion, nursing personnel  
30 shall check the patient's hygienic, toileting, food-related, and other  
31 needs every 15 minutes. A notation of these checks shall be placed  
32 in the patient's medical record along with the order for restraints or  
33 seclusion. A patient in restraints shall be permitted to ambulate  
34 every four hours, except when the patient's psychiatric condition  
35 would make a release from restraints dangerous to **【himself】** the  
36 patient or others, and shall be permitted to ambulate at least once  
37 every 12 hours regardless of the patient's psychiatric condition.

38 (4) To be free from any form of punishment.

39 (5) Not to receive electroconvulsive treatment or participate in  
40 experimental research without the express and informed, written  
41 consent of the patient. The patient shall have the right to consult  
42 with counsel or interested party of the patient's choice. A copy of  
43 the patient's consent shall be placed in the patient's treatment  
44 record. If the patient has been adjudicated **【incompetent】**  
45 incapacitated, a court of competent jurisdiction shall hold a hearing  
46 to determine the necessity of the procedure. The patient shall be  
47 physically present at the hearing, represented by counsel, and  
48 provided the right and opportunity to be confronted with and to  
49 cross-examine all witnesses alleging the necessity of the procedure.

1 In these proceedings, the burden of proof shall be on the party  
2 alleging the necessity of the procedure. In the event that a patient  
3 cannot afford counsel, the court shall appoint an attorney not less  
4 than 10 days before the hearing. An attorney so appointed shall be  
5 entitled to a reasonable fee to be determined by the court and paid  
6 by the State.

7 b. A patient receiving treatment in a short-term care facility  
8 shall have the following rights, which may only be denied pursuant  
9 to subsection c. of this section. A list of these rights shall be posted  
10 in a conspicuous place in each room designated for use by a patient  
11 and otherwise brought to the patient's attention pursuant to  
12 subsection d. of this section:

13 (1) To privacy and dignity.

14 (2) To the least restrictive conditions necessary to achieve the  
15 purposes of treatment.

16 (3) To wear **[his]** the patient's own clothes; to have access to  
17 and use **[his]** nondangerous personal possessions including **[his]**  
18 toilet articles; and to have access to and be allowed to spend a  
19 reasonable sum of **[his own]** money for expenses and small  
20 purchases.

21 (4) To have access to individual storage space for **[his]** private  
22 use.

23 (5) To see visitors each day.

24 (6) To have reasonable access to and use of telephones, both to  
25 make and receive confidential calls.

26 (7) To have ready access to letter writing materials, including  
27 stamps, and to mail and receive unopened correspondence.

28 (8) To regular physical exercise or organized physical activities  
29 several times a week.

30 (9) To be outdoors at regular and frequent intervals, in the  
31 absence of medical considerations, commencing two weeks after  
32 admission, except where the physical location of the short-term care  
33 facility precludes outdoor exercise or would render the supervision  
34 of outdoor exercise too onerous for the facility.

35 (10) To suitable opportunities for interaction with members of  
36 the opposite sex, with adequate supervision.

37 (11) To practice the patient's religion of **[his]** choice or abstain  
38 from religious practices. Provisions for worship shall be made  
39 available to each patient on a nondiscriminatory basis.

40 (12) To receive prompt and adequate medical treatment for any  
41 physical ailment.

42 (13) To be provided with a reasonable explanation, in terms and  
43 language appropriate to the patient's condition and ability to  
44 understand, of:

45 (a) the patient's general mental and physical condition;

46 (b) the objectives of the patient's treatment;

47 (c) the nature and significant possible adverse effects of  
48 recommended treatments;

1 (d) the reasons why a particular treatment is considered  
2 appropriate; and

3 (e) the reasons for the denial of any of the patient's rights  
4 pursuant to subsection c. of this section.

5 c. (1) A patient's rights designated under subsection b. of this  
6 section may be denied only for good cause when the attending  
7 physician feels it is imperative to deny any of these rights; except  
8 that, under no circumstances shall a patient's right to communicate  
9 with ~~his~~ the patient's attorney, physician, or the courts be  
10 restricted. The denial of a patient's rights shall take effect only after  
11 a copy of the written notice of the denial has been filed in the  
12 patient's treatment record and shall include an explanation of the  
13 reason for the denial.

14 (2) A denial of rights shall be effective for a period not to  
15 exceed 10 days and shall be renewed for additional 10-day periods  
16 only by a written statement entered by the attending physician or  
17 other designated physician in the patient's treatment record ~~which~~  
18 indicates ~~indicating~~ the detailed reason for the renewal of the  
19 denial.

20 (3) In each instance of a denial or a renewal, the patient, ~~his~~  
21 the patient's attorney, and ~~his~~ the patient's guardian, if the patient  
22 has been adjudicated ~~incompetent~~ incapacitated, shall be given  
23 written notice of the denial or renewal and the reason ~~therefor~~.

24 d. A notice of the rights set forth in this section shall be given  
25 to a patient in a short-term care facility upon admission. The notice  
26 shall be ~~in writing and~~ written in simple understandable language.  
27 It shall be in a language the patient understands and if the patient  
28 cannot read the notice, it shall be read to ~~him~~ the patient. ~~In the~~  
29 case of an ~~If a patient is~~ adjudicated ~~incompetent patient, this~~  
30 procedure shall be followed for the ~~incapacitated, the notice shall~~  
31 be given to the patient's guardian. Receipt of this notice shall be  
32 acknowledged in writing with a copy placed in the patient's file. If  
33 the patient or guardian refuses to acknowledge receipt of the notice,  
34 the person delivering the notice shall state this in writing, with a  
35 copy placed in the patient's file.

36 (cf: P.L.1991, c.233, s.4)

37

38 84. Section 5 of P.L.1991, c.233 (30:4-27.11e) is amended to  
39 read as follows:

40 5. a. A patient in a screening service shall have the following  
41 rights, which shall apply during the first 24 hours of involuntary  
42 assessment and care provided at a screening service and which shall  
43 not be denied under any circumstances. A list of these rights shall  
44 be posted in a conspicuous place in the screening service and  
45 otherwise brought to the patient's attention pursuant to subsection d.  
46 of this section:

47 (1) To be free from unnecessary or excessive medication.  
48 Medication shall not be administered unless at the order of a

1 physician. Medication shall be administered in accordance with  
2 generally accepted medical standards as part of a treatment  
3 program. Medication shall not be used as punishment, for the  
4 convenience of staff, as a substitute for a treatment program, or in  
5 quantities that interfere with the patient's treatment program.

6 In an emergency in which less restrictive or appropriate  
7 alternatives acceptable to the patient are not available to prevent  
8 imminent danger to the patient or others, medication may be  
9 administered over a patient's objection at the written order of a  
10 physician, which shall be valid for a period of up to 24 hours, in  
11 order to lessen the danger.

12 (2) Not to be subjected to experimental research, psychosurgery,  
13 or sterilization, without the express and informed, written consent  
14 of the patient. The patient shall have the right to consult with  
15 counsel or interested party of the patient's choice. A copy of the  
16 patient's consent shall be placed in the patient's treatment record.

17 (3) To be free from unnecessary physical restraint and seclusion.  
18 Except for an emergency, in which a patient has caused substantial  
19 property damage or has attempted to harm himself or others, or in  
20 which **[his]** the patient's behavior threatens to harm himself or  
21 others, and in which less restrictive means of restraint are not  
22 feasible, a patient may be physically restrained or placed in  
23 seclusion only on an attending physician's written order or that of  
24 another designated physician which explains the rationale for that  
25 action. The written order may be given only after the attending  
26 physician or other designated physician has personally seen the  
27 patient, and evaluated the episode or situation that is said to require  
28 restraint or seclusion.

29 In an emergency, the use of restraints or seclusion may be  
30 initiated by a registered professional nurse and shall be for no more  
31 than one hour. Within that hour, the nurse shall consult with the  
32 attending physician or other designated physician and, if continued  
33 restraint or seclusion is determined to be necessary, shall obtain an  
34 order from the physician to continue the use of restraints or  
35 seclusion. If an order is given, the patient shall be reevaluated by  
36 the nurse or the attending physician or other designated physician as  
37 to the patient's physical and psychiatric condition and the need for  
38 continuing the restraints or seclusion at least every two hours until  
39 the use of restraints or seclusion has ended.

40 The patient's attending physician or other designated physician  
41 shall enter a written order approving the continued use of restraints  
42 or seclusion no later than 12 hours after the time that physical  
43 restraint or seclusion began, after the physician has personally seen  
44 the patient. A written order by the physician for the continued use  
45 of restraints or seclusion shall be effective for no more than 24  
46 hours and shall be renewed if restraint and seclusion are continued.  
47 A medical examination of the patient shall be conducted every 12  
48 hours by a physician.



1 While a patient is in restraints or seclusion, nursing personnel  
2 shall check the patient's hygienic, toileting, food-related, and other  
3 needs every 15 minutes. A notation of these checks shall be placed  
4 in the patient's medical record along with the order for restraints or  
5 seclusion. A patient in restraints shall be permitted to ambulate  
6 every four hours, except when the patient's psychiatric condition  
7 would make a release from restraints dangerous to **【himself】** the  
8 patient or others, and shall be permitted to ambulate at least once  
9 every 12 hours regardless of the patient's psychiatric condition.

10 (4) To be free from any form of punishment.

11 b. A patient receiving treatment in a screening service shall  
12 have the following rights, which may only be denied pursuant to  
13 subsection c. of this section. A list of these rights shall be posted in  
14 a conspicuous place in the screening service and otherwise brought  
15 to the patient's attention pursuant to subsection d. of this section:

16 (1) To privacy and dignity.

17 (2) To the least restrictive conditions necessary to achieve the  
18 purposes of treatment.

19 (3) To wear **【his】** the patient's own clothes, except as necessary  
20 for medical examination.

21 (4) To see visitors.

22 (5) To have reasonable access to and use of telephones, both to  
23 make and receive confidential calls.

24 (6) To practice the patient's religion of **【his】** choice or abstain  
25 from religious practices.

26 (7) To receive prompt and adequate medical treatment for any  
27 physical ailment.

28 (8) To be provided with a reasonable explanation, in terms and  
29 language appropriate to the patient's condition and ability to  
30 understand, of:

31 (a) the patient's general mental condition, and **【his】** physical  
32 condition if the screening service has conducted a physical  
33 examination of the patient;

34 (b) the objectives of the patient's treatment;

35 (c) the nature and significant possible adverse effects of  
36 recommended treatments;

37 (d) the reasons why a particular treatment is considered  
38 appropriate; and

39 (e) the reasons for the denial of any of the patient's rights  
40 pursuant to subsection c. of this section.

41 (9) To have a discharge plan prepared **【for him】** and to  
42 participate in the preparation of that plan.

43 c. (1) A patient's rights designated under subsection b. of this  
44 section may be denied only for good cause when the attending  
45 physician feels it is imperative to deny any of these rights; except  
46 that, under no circumstances shall a patient's right to communicate  
47 with **【his】** the patient's attorney, physician, or the courts be  
48 restricted. The denial of a patient's rights shall take effect only after

1 a copy of the written notice of the denial has been filed in the  
2 patient's treatment record and shall include an explanation of the  
3 reason for the denial.

4 (2) A denial of rights shall be effective only for the period of  
5 time that the patient is in the screening service.

6 d. A notice of the rights set forth in this section shall be given  
7 to a patient as soon as possible upon admission to the screening  
8 service. The notice shall be **[in writing and]** written in simple  
9 understandable language. It shall be in a language the patient  
10 understands and if the patient cannot read the notice, it shall be read  
11 to **[him]** the patient. **[In the case of an]** If the patient is  
12 adjudicated [incompetent patient, this procedure shall be followed  
13 for] incapacitated, the notice shall be given to the patient's  
14 guardian. Receipt of this notice shall be acknowledged in writing  
15 with a copy placed in the patient's file. If the patient or guardian  
16 refuses to acknowledge receipt of the notice, the person delivering  
17 the notice shall state this in writing with a copy placed in the  
18 patient's file.

19 (cf: P.L.1991, c.233, s.5)

20

21 85. R.S.30:4-101 is amended to read as follows:

22 30:4-101. **[In]** Married, domestic partnership, or civil union  
23 couples who are residents of a public institution maintained in  
24 whole or in part by the State, or a county, municipality, or  
25 subdivision thereof, **[married couples, inmates of the same**  
26 **institution,]** shall not be **[separated or]** maintained in separate  
27 quarters. This provision shall not apply to institutions for persons  
28 with mental illness or developmental disabilities, or to correctional  
29 institutions or **[to cases]** where the health or mental condition of  
30 the persons concerned warrants separation.

31 (cf: P.L.2010, c.50, s.42)

32

33 86. Section 10 of P.L.1985, c.133 (C.30:4-165.15) is amended to  
34 read as follows:

35 10. a. Whenever the commissioner believes that guardianship is  
36 no longer required or that another person should be appointed to  
37 serve as guardian, **[he]** the commissioner shall apply to the  
38 Superior Court for an order modifying or terminating the letters of  
39 guardianship. Where someone other than the commissioner is  
40 serving as guardian, notice shall be provided to that person.

41 b. At least once every three years, the commissioner shall  
42 review the case of each person who receives functional or other  
43 services and who has a guardian.

44 c. The Public Defender, the **[incompetent]** incapacitated  
45 person, or someone acting [in his] on behalf of the incapacitated  
46 person may institute a similar action for judicial review at any time.

47 d. In cases where the commissioner serves as guardian, the  
48 Public Defender shall be given notice of any actions taken pursuant

1 to subsection a. or b. of this section. The Public Defender shall be  
2 given an opportunity to meet the person subject to review and  
3 inspect the commissioner's records.

4 (cf: P.L.1994, c.58, s.49)

5  
6 87. Section 7 of P.L.1946, c.118 (C.30:4A-7) is amended to read  
7 as follows:

8 7. If the person for whom the diagnosis is sought by any court  
9 or agency of the State, ~~or of a~~ county, or municipal government,  
10 desiring to utilize the services of the diagnostic center, is not under  
11 confinement or process ~~of any nature whatsoever~~, then admission  
12 to the diagnostic center shall be secured upon application to the  
13 Superior Court upon forms to be provided by the Department of  
14 Human Services. The county adjuster shall be the official ~~in the~~  
15 county charged with the responsibility of assisting with processing  
16 of ~~such~~ the applications and shall perform functions similar to  
17 those set forth in Title 30~~, ]~~ of the Revised Statutes. In connection  
18 with each ~~such~~ application, the court shall order a hearing to be  
19 held, which may be in camera at the discretion of the court. At least  
20 ~~ten~~ 10 days' notice of the time, date, and place of ~~such~~ the  
21 hearing shall be served upon the person, and if ~~he be~~ a minor or  
22 ~~incompetent~~ a person who is incapacitated, upon the parent,  
23 guardian, person standing in loco parentis, or person having custody  
24 and control of ~~such~~ the minor or ~~incompetent~~ person who is  
25 incapacitated. At ~~such~~ the hearing, the court shall determine  
26 whether the services of the diagnostic center shall be made  
27 available to the ~~said~~ person and may order the person's  
28 confinement ~~of such person~~ in the center for a period not to  
29 exceed ~~ninety~~ 90 days ~~and shall cause a copy of said order of~~  
30 ~~confinement to accompany the said person~~ , which order shall be  
31 provided to the center.

32 (cf: P.1991, c.91, s.324)

33  
34 88. Section 17 of P.L.1968, c.413 (C.30:4D-17) is amended to  
35 read as follows:

36 17. (a) Any person who willfully obtains benefits under ~~this~~  
37 ~~act~~ P.L.1968, c.413 (C.30:4D-1 et seq.) to which ~~he~~ a person is  
38 not entitled or in a greater amount than that to which ~~he~~ a person  
39 is entitled and any provider who willfully receives medical  
40 assistance payments to which ~~he~~ a provider is not entitled or in a  
41 greater amount than that to which ~~he~~ a provider is entitled is  
42 guilty of a crime of the third degree, provided, however, that the  
43 presumption of nonimprisonment set forth in subsection e. of  
44 N.J.S.2C:44-1 for persons who have not previously been convicted  
45 of an offense shall not apply to a person who is convicted under the  
46 provisions of this subsection.

1 (b) Any provider, or any person, firm, partnership, corporation,  
2 or entity, who:

3 (1) Knowingly and willfully makes or causes to be made any  
4 false statement or representation of a material fact in any cost study,  
5 claim form, or any document necessary to apply for or receive any  
6 benefit or payment under **[this act]** P.L.1968, c.413; or

7 (2) At any time knowingly and willfully makes or causes to be  
8 made any false statement, written or oral, of a material fact for use  
9 in determining rights to such benefit or payment under **[this act]**  
10 P.L.1968, c.413; or

11 (3) Conceals or fails to disclose the occurrence of an event  
12 which

13 (i) affects **[his]** a person's initial or continued right to any such  
14 benefit or payment, or

15 (ii) affects the initial or continued right to any such benefit or  
16 payment of any provider or any person, firm, partnership,  
17 corporation, or other entity in whose behalf **[he]** a person has  
18 applied for or is receiving such benefit or payment with an intent to  
19 fraudulently secure benefits or payments not authorized under **[this**  
20 **act]** P.L.1968, c.413 or in a greater amount than that which is  
21 authorized under **[this act]** P.L.1968, c.413; or

22 (4) Knowingly and willfully converts benefits or payments or  
23 any part thereof received for the use and benefit of any provider or  
24 any person, firm, partnership, corporation, or other entity to a use  
25 other than the use and benefit of such provider or such person, firm,  
26 partnership, corporation, or entity; is guilty of a crime of the third  
27 degree, provided, however, that the presumption of  
28 nonimprisonment set forth in subsection e. of N.J.S.2C:44-1 for  
29 persons who have not previously been convicted of an offense shall  
30 not apply to a person who is convicted under the provisions of this  
31 subsection.

32 (c) Any provider, or any person, firm, partnership, corporation,  
33 or entity who solicits, offers, or receives any kickback, rebate, or  
34 bribe in connection with:

35 (1) The furnishing of items or services for which payment is or  
36 may be made in whole or in part under **[this act]** P.L.1968, c.413;  
37 or

38 (2) The furnishing of items or services whose cost is or may be  
39 reported in whole or in part in order to obtain benefits or payments  
40 under **[this act]** P.L.1968, c.413; or

41 (3) The receipt of any benefit or payment under this act, is  
42 guilty of a crime of the third degree, provided, however, that the  
43 presumption of nonimprisonment set forth in subsection e. of  
44 N.J.S.2C:44-1 for persons who have not previously been convicted  
45 of an offense shall not apply to a person who is convicted under the  
46 provisions of this subsection.

47 This subsection shall not apply to (A) a discount or other  
48 reduction in price under **[this act]** P.L.1968, c.413 if the reduction

1 in price is properly disclosed and appropriately reflected in the  
2 costs claimed or charges made under **[this act]** P.L.1968, c.413;  
3 and (B) any amount paid by an employer to an employee who has a  
4 bona fide employment relationship with such employer for  
5 employment in the provision of covered items or services.

6 (d) Whoever knowingly and willfully makes or causes to be  
7 made or induces or seeks to induce the making of any false  
8 statement or representation of a material fact with respect to the  
9 conditions or operations of any institution or facility in order that  
10 such institution or facility may qualify either upon initial  
11 certification or recertification as a hospital, skilled nursing facility,  
12 intermediate care facility, or health agency, thereby entitling them  
13 to receive payments under **[this act]** P.L.1968, c.413, shall be  
14 guilty of a crime of the fourth degree.

15 (e) Any person, firm, corporation, partnership, or other legal  
16 entity who violates the provisions of any of the foregoing  
17 subsections of this section or any provisions of section 3 of  
18 P.L.2007, c.265 (C.2A:32C-3), shall, in addition to any other  
19 penalties provided by law, be liable to civil penalties of: (1)  
20 payment of interest on the amount of the excess benefits or  
21 payments at the maximum legal rate in effect on the date the  
22 payment was made to said person, firm, corporation, partnership or  
23 other legal entity for the period from the date upon which payment  
24 was made to the date upon which repayment is made to the  
25 State~~[,]~~; (2) payment of an amount not to exceed three-fold the  
26 amount of such excess benefits or payments~~[,]~~; and (3) payment in  
27 the sum of not less than and not more than the civil penalty allowed  
28 under the federal False Claims Act (31 U.S.C. s.3729 et seq.), as it  
29 may be adjusted for inflation pursuant to the Federal Civil Penalties  
30 Inflation Adjustment Act of 1990, Pub.L.101-410 for each  
31 excessive claim for assistance, benefits or payments.

32 (f) Any person, firm, corporation, partnership, or other legal  
33 entity, other than an individual recipient of medical services  
34 reimbursable by the Division of Medical Assistance and Health  
35 Services, who, without intent to violate **[this act]** P.L.1968, c.413,  
36 obtains medical assistance or other benefits or payments under **[this**  
37 **act]** P.L.1968, c.413 in excess of the amount to which he is entitled,  
38 shall be liable to a civil penalty of payment of interest on the  
39 amount of the excess benefits or payments at the maximum legal  
40 rate in effect on the date the benefit or payment was made to said  
41 person, firm, corporation, partnership, or other legal entity for the  
42 period from September 15, 1976 or the date upon which payment  
43 was made, whichever is later, to the date upon which repayment is  
44 made to the State, provided, however, that no such person, firm,  
45 corporation, partnership, or other legal entity shall be liable to such  
46 civil penalty when excess medical assistance or other benefits or  
47 payments under this act are obtained by such person, firm,  
48 corporation, partnership, or other legal entity as a result of error

1 made by the Division of Medical Assistance and Health Services, as  
2 determined by said division; provided, further, that if preliminary  
3 notification of an overpayment is not given to a provider by the  
4 division within 180 days after completion of the field audit as  
5 defined by regulation, no interest shall accrue during the period  
6 beginning 180 days after completion of the field audit and ending  
7 on the date preliminary notification is given to the provider.

8 (g) All interest and civil penalties provided for in **[this act]**  
9 P.L.1968, c.413 and all medical assistance and other benefits to  
10 which a person, firm, corporation, partnership, or other legal entity  
11 was not entitled shall be recovered in an administrative proceeding  
12 held pursuant to the "Administrative Procedure Act," P.L.1968,  
13 c.410 (C.52:14B-1 et seq.), except that recovery actions against  
14 minors or **[incompetents]** incapacitated persons shall be initiated in  
15 a court of competent jurisdiction.

16 (h) Upon the failure of any person, firm, corporation,  
17 partnership, or other legal entity to comply within 10 days after  
18 service of any order of the director or **[his]** the director's designee  
19 directing payment of any amount found to be due pursuant to  
20 subsection (g) of this section, or at any time prior to any final  
21 agency adjudication not involving a recipient or former recipient of  
22 benefits under **[this act]** P.L.1968, c.413, the director may issue a  
23 certificate to the clerk of the Superior Court that such person, firm,  
24 corporation, partnership, or other legal entity is indebted to the  
25 State for the payment of **[such]** the amount. A copy of such  
26 certificate shall be served upon the person, firm, corporation,  
27 partnership, or other legal entity against whom the order was  
28 entered. Thereupon the clerk shall immediately enter upon **[his]**  
29 the record of docketed judgments the name of the person, firm,  
30 corporation, partnership, or other legal entity so indebted, and of the  
31 State, a designation of the statute under which such amount is found  
32 to be due, the amount due, and the date of the certification. Such  
33 entry shall have the same force and effect as the entry of a docketed  
34 judgment in the Superior Court. Such entry, however, shall be  
35 without prejudice to the right of appeal to the Appellate Division of  
36 the Superior Court from the final order of the director or **[his]** the  
37 director's designee.

38 (i) In order to satisfy any recovery claim asserted against a  
39 provider under this section, whether or not that claim has been the  
40 subject of final agency adjudication, the division or its fiscal agents  
41 is authorized to withhold funds otherwise payable under **[this act]**  
42 P.L.1968, c.413 to the provider.

43 (j) The Attorney General may, when requested by the  
44 commissioner or **[his]** the commissioner's agent, apply ex parte to  
45 the Superior Court to compel any party to comply forthwith with a  
46 **[subpena]** subpoena issued under **[this act]** P.L.1968, c.413. Any  
47 party who, having been served with a **[subpena]** subpoena issued  
48 pursuant to the provisions of **[this act]** P.L.1968, c.413, fails either

1 to attend any hearing, or to appear or be examined, to answer any  
2 question or to produce any books, records, accounts, papers or  
3 documents, shall be liable to a penalty of ~~[\$500.00]~~ \$500 for each  
4 such failure, to be recovered in the name of the State in a summary  
5 civil proceeding to be initiated in the Superior Court. The Attorney  
6 General shall prosecute the actions for the recovery of the penalty  
7 prescribed in this section when requested to do so by the  
8 commissioner or ~~[his]~~ the commissioner's agent and when, in the  
9 judgment of the Attorney General, the facts and law warrant such  
10 prosecution. Such failure on the part of the party shall be  
11 punishable as contempt of court by the court in the same manner as  
12 like failure is punishable in an action pending in the court when the  
13 matter is brought before the court by motion filed by the Attorney  
14 General and supported by affidavit stating the circumstances.

15 (k) Notwithstanding the provisions of N.J.S.2C:43-3 to the  
16 contrary, but in addition to any other penalty or disposition that may  
17 be imposed by law:

18 (1) a person who violates the provisions of subsection (a), (b),  
19 or (c) of this section shall be liable to a penalty of not less than  
20 \$15,000 and not more than \$25,000 for each violation; and

21 (2) a person who violates the provisions of subsection (d) of this  
22 section shall be liable to a penalty of not less than \$10,000 and not  
23 more than \$25,000 for each violation.

24 (l) A person who violates the provisions of subsection (a), (b),  
25 or (c) of this section under circumstances in which the aggregate  
26 amount obtained or sought to be obtained is \$1,000 or more, who  
27 has previously been convicted of a violation of the provisions of  
28 subsection (a), (b), or (c) of this section within 10 years of the  
29 current violation, under circumstances where the aggregate amount  
30 obtained or sought to be obtained was \$1,000 or more, is guilty of a  
31 crime of the second degree and, in addition to any other penalty or  
32 disposition authorized by law and notwithstanding the provisions of  
33 N.J.S.2C:43-3 to the contrary, shall be liable to a penalty of not less  
34 than \$25,000 and not more than \$150,000 for each such repeat  
35 violation.

36 (cf: P.L.2010, c.30, s.2)

37

38 89. Section 1 of P.L.1952, c.76 (C.30:6B-1) is amended to read  
39 as follows:

40 1. ~~[Whenever,]~~ If it is determined in [any] a proceeding in  
41 [any] a court of competent jurisdiction [or before a judicial officer,  
42 having jurisdiction thereof, under the laws of this State] for the  
43 commitment of a person alleged to be ~~[of unsound mind]~~ mentally  
44 incapacitated or otherwise in need of confinement in a psychiatric  
45 hospital or other institution for [his] the person's proper care, [it is  
46 determined after such adjudication of the status of such person as  
47 may be required by law that commitment to a hospital for mental  
48 disease or other institution] treatment, or safekeeping, that

1 commitment is necessary [for safekeeping or treatment and it  
2 appears that such] and that the person is eligible for care or  
3 treatment by the Department of Veterans [Administration] Affairs  
4 or other agency of the United States [Government, the said court or  
5 judicial officer], the court may commit the person to the  
6 Department of Veterans Affairs or other agency instead of to a State  
7 institution, upon receipt of a certificate from the Department of  
8 Veterans [Administration] Affairs or [such] other agency showing  
9 that facilities are available and that [such] the person is eligible for  
10 care or treatment therein, [may,] subject to the provisions of this  
11 act [, commit such person to said Veterans Administration or other  
12 agency instead of to an institution of this State].

13 Upon [any such] commitment, [such person,] and when  
14 admitted to [any] a facility operated by any such agency [within or  
15 without this State], the person shall be subject to the rules and  
16 regulations of the Department of Veterans [Administration] Affairs  
17 or other agency. The chief officer of [any] a facility of the  
18 Department of Veterans [Administration] Affairs or institution  
19 operated by [any] the other agency [of the United States] to which  
20 the person is [so] committed shall, with respect to [such person]  
21 the retention of the person's custody, transfer, parole, or discharge,  
22 be vested with the same powers as that of the chief officer of a State  
23 institution [would have] if [such] the person had been committed  
24 to a State institution[, with respect to the retention of custody,  
25 transfer, parole or discharge of such person].

26 (cf: P.L.1952, c.76, s.1)

27

28 90. Section 4 of P.L.1952, c.76 (C.30:6B-4) is amended to read  
29 as follows:

30 4. Upon receipt of a certificate of the Department of Veterans  
31 [Administration] Affairs or [such] other agency of the United  
32 States that facilities are available for the care or treatment of [any]  
33 a person [heretofore] committed to [any hospital] an institution for  
34 the [insane or other institution for the care or treatment of persons  
35 similarly afflicted] care and treatment of persons who are mentally  
36 incapacitated and that [such] the person is eligible for care or  
37 treatment, the chief officer of the institution may, subject to the  
38 approval of the Commissioner of [Institutions and Agencies]  
39 Human Services or of the court [or judicial officer] having  
40 jurisdiction [of such] over the person, [cause the] transfer [of  
41 such] the person to the Department of Veterans [Administration]  
42 Affairs or other agency [of the United States] for care or treatment.

43 [Any] A person transferred as provided in this section shall be  
44 deemed [to be] committed to the Department of Veterans



1 **[Administration] Affairs** or other agency **[of the United States]**,  
2 pursuant to the original commitment.  
3 (cf: P.L.1957, c.138, s.1)

4  
5 91. Section 4 of P.L.1977, c.82 (C.30:6D-4) is amended to read  
6 as follows:

7 4. No **[developmentally disabled]** person with a developmental  
8 disability shall be presumed to be **[incompetent]** incapacitated or  
9 shall be discriminated against or shall be deprived of any  
10 constitutional, civil, or legal right solely by reason of admission to  
11 or residence at a facility or solely by reason of receipt of any  
12 service for **[developmentally disabled]** persons with developmental  
13 disabilities. No such admission, residence, or receipt of services  
14 shall modify or vary any constitutional, civil, or legal right of  
15 **[such]** the person, including, but not necessarily limited to**[:]** , the  
16 right to:

- 17 a. Register and vote at elections;  
18 b. Free exercise of religion;  
19 c. Receive and send unopened correspondence and, upon  
20 request, to obtain assistance in the writing and reading of **[such]**  
21 that correspondence;  
22 d. Private visitations and private telephone conversations  
23 without prior notice to the facility during **[such]** reasonable hours  
24 as may be established by the facility with parents, guardians,  
25 representatives of guardian services, relatives, friends, physicians,  
26 attorneys, government officials, and any other persons;  
27 e. Reasonable opportunities for interaction with members of  
28 the opposite sex;  
29 f. Confidential handling of personal and medical records.

30 (cf: P.L.1977, c.82, s 4)

31  
32 92. Section 5 of P.L.1977, c.82 (C.30:6D-5) is amended to read  
33 as follows:

34 5. a. No person receiving services for **[the developmentally**  
35 **disabled]** persons with developmental disabilities at any facility  
36 shall:

- 37 (1) be subjected to any corporal punishment;  
38 (2) be administered any medication or chemical restraint, except  
39 upon the written authorization of a physician when necessary and  
40 appropriate as an element of the service being received or as a  
41 treatment of any medical or physical condition in conformity with  
42 accepted standards for **[such]** that treatment. The nature, amount  
43 of, and reasons for the administration of any medication or chemical  
44 restraint shall be promptly recorded in **[such]** the person's medical  
45 record; or  
46 (3) be physically or chemically restrained or isolated in any  
47 manner, except in emergency situations for the control of violent,  
48 disturbed, or depressed behavior which may immediately result in

1 or has resulted in harm to **[such]** the person or other person or in  
2 substantial property damage.

3 The chief administrator of the facility, or **[his]** the chief  
4 administrator's designee, shall be notified immediately upon the  
5 application of any **[such]** restraint or isolation, and thereafter  
6 **[such]** the restraint or isolation shall be continued only upon the  
7 written order of the administrator or designee. **[Such]** The order  
8 shall be effective for not more than 24 hours, and may be renewed  
9 for additional periods of not more than 24 hours each if the  
10 administrator or designee shall determine that **[such]** continued  
11 restraint or isolation is necessary. While in restraint or isolation,  
12 **[such]** the person shall be checked by an attendant every 15  
13 minutes, and bathed every 24 hours. **[Such]** The restraint or  
14 isolation shall be terminated at any time if an attending physician  
15 shall find **[such]** the restraint or isolation to be medically  
16 contraindicated. The nature, duration of, reasons for, and notation  
17 of attendant checks shall be promptly recorded in **[such]** the  
18 person's medical record;

19 (4) be subjected to shock treatment, psychosurgery, sterilization,  
20 or medical behavioral or pharmacological research without the  
21 express and informed consent of **[such]** the person, if **[a**  
22 **competent]** an adult who has mental capacity, or of **[such]** the  
23 person's guardian ad litem specifically appointed by a court for the  
24 matter of consent to these proceedings, if a minor or an  
25 **[incompetent]** adult who lacks mental capacity or a person  
26 administratively determined to **[be mentally deficient]** have a  
27 mental deficiency. **[Such]** The consent shall be made in writing  
28 and shall be placed in **[such]** the person's record.

29 Either the party alleging the necessity of **[such]** the procedure or  
30 **[such]** the person or **[such]** the person's guardian ad litem may  
31 petition a court of competent jurisdiction to hold a hearing to  
32 determine the necessity of **[such]** the procedure at which the client  
33 is physically present, represented by counsel, and provided the right  
34 and opportunity to be confronted with and to cross-examine all  
35 witnesses alleging the necessity of **[such]** the procedure. In **[such]**  
36 the proceedings, the burden of proof shall be on the party alleging  
37 the necessity of **[such]** the procedure. In the event that a person  
38 cannot afford counsel, the court shall appoint an attorney not less  
39 than 10 days before the hearing. An attorney so appointed shall be  
40 entitled to a reasonable fee to be determined by the court and paid  
41 by the county from which the person was admitted. Under no  
42 circumstances may a person in treatment be subjected to hazardous  
43 or intrusive experimental research which is not directly related to  
44 the specific goals of **[his]** the person's treatment program.

45 (5) Notwithstanding the provisions of paragraph (4) of this  
46 subsection to the contrary, nothing in this section shall prohibit  
47 consent obtained or research conducted pursuant to the provisions

1 of P.L.2007, c.316 (C.26:14-1 et seq.) as provided  
2 in this paragraph (5).

3 (a) In addition to meeting the requirements of sections 4 and 5  
4 of P.L.2007, c.316 (C.26:14-4 and C.26:14-5), medical research  
5 involving persons who are protected by the provisions of this  
6 subsection shall also meet the approval of the Interdisciplinary  
7 Research Committee established herein.

8 (b) The members of the Interdisciplinary Research Committee  
9 shall be appointed by the Assistant Commissioner of the Division of  
10 Developmental Disabilities in the Department of Human Services,  
11 and shall serve at the pleasure of the Assistant Commissioner. The  
12 members shall have diverse backgrounds, represent a variety of  
13 professions, and include at least one self-advocate and one family  
14 member, neither of whom shall be an employee of the department.

15 (c) The committee shall independently determine whether the  
16 criteria set forth in section 3 of P.L.2007, c.316 (C.26:14-3), and  
17 where required, the informed consent provisions of section 4 of  
18 P.L.2007, c.316 (C.26:14-4), have been met. In addition, the  
19 committee may impose such other conditions on approval as it  
20 determines are necessary to protect the health, safety, and autonomy  
21 of the individuals participating in the medical research.

22 (d) Notices of proposals for medical research received by the  
23 committee, and the committee's action on the proposals, shall be  
24 posted on the department's website and forwarded to the New Jersey  
25 Council on Developmental Disabilities, The Elizabeth M. Boggs  
26 Center on Developmental Disabilities, and Disability Rights of New  
27 Jersey.

28 (e) Two years after enactment of P.L.2011, c.182 and every two  
29 years thereafter, the division shall provide to the Legislature,  
30 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), and post on  
31 the division's Internet website, a summary of the research proposals  
32 reviewed by the committee and the actions taken.

33 b. Every **【developmentally disabled】** person with a  
34 developmental disability in residence at any facility shall be  
35 provided with a nutritionally adequate and sufficient diet and shall  
36 receive appropriate and sufficient medical and dental care on a  
37 regular basis and whenever otherwise necessary.

38 c. Every **【developmentally disabled】** person with a  
39 developmental disability between the ages of **【5】** five and 21,  
40 inclusive, in residence or full-time attendance at any facility shall  
41 be provided a thorough and efficient education suited to **【such】** the  
42 person's age and abilities.

43 (cf: P.L.2011, c.182, s.1)

44

45 93. R.S.30:9-1 is amended to read as follows:

46 30:9-1. The **【boards of chosen freeholders in】** counties of the  
47 first class shall appoint a superintendent for each county hospital  
48 and the physicians for the several county hospitals. The **【terms】**

1 term of office of [such appointees, except that of the  
2 superintendents of the county hospitals for the insane, whose terms  
3 of office shall be] the physicians shall be two years. The term of  
4 office of the superintendents of the county hospitals shall be as  
5 provided by [section] R.S.30:9-12 [of this title, shall be two  
6 years].

7 (cf: R.S.30:9-1)

8

9 94. Section 1 of P.L.1941, c.37 (C.30:9-3.1) is amended to read  
10 as follows:

11 1. [Boards of chosen freeholders] Counties are empowered to  
12 maintain a commissary or store for the sale of commodities to  
13 patients, patients' visitors, and employees of any county psychiatric  
14 hospital [for the insane] under rules to be adopted by the [board]  
15 county. The cost of establishing the commissary or store may be  
16 defrayed out of [any] funds appropriated for current maintenance.  
17 Any profit [accruing] may be used [by the board] for recreational  
18 entertainment of the patients or [any other] another like purpose.

19 (cf: P.L.1941, c.37, s.1)

20

21 95. R.S.30:9-4 is amended to read as follows:

22 30:9-4. [Wherever in any county in this State a lunatic asylum]  
23 If a psychiatric hospital is owned and maintained by the county, and  
24 it becomes necessary [from time to time] either to enlarge [such  
25 asylum] the hospital by the building of additions or extensions  
26 [thereto], or to erect additional buildings [or pavilions] for the  
27 accommodation of the [insane] patients, the board of chosen  
28 freeholders or governing body of [any such] the county may [,  
29 from time to time], upon a resolution or ordinance, as appropriate,  
30 to be adopted by the affirmative votes of two-thirds of the  
31 [members of such board] full authorized membership of the board,  
32 build [such] additions, extensions, additional building or buildings,  
33 [pavilion or pavilions], and properly fit, furnish, and equip [the  
34 same] them.

35 (cf: P.L.1940, c.7, s.1)

36

37 96. R.S.30:9-5 is amended to read as follows:

38 30:9-5. [To] The county may issue bonds in the corporate name  
39 of the county to meet the expense of erecting new buildings,  
40 additions, or accommodations at a county [lunatic asylum]  
41 psychiatric hospital, and making repairs to [such] or otherwise  
42 properly fitting, furnishing, and equipping the buildings [,  
43 providing proper furniture or apparatus for lighting, heating or  
44 otherwise fitting up the same, the board of chosen freeholders may  
45 issue bonds in the corporate name of the county].

46 (cf: P.L.1940, c.7, s.2)

1 97. R.S.30:9-6 is amended to read as follows:

2 30:9-6. The board of chosen freeholders or governing body of a  
3 county, by a resolution or ordinance, as appropriate, adopted by the  
4 affirmative vote of two-thirds of **[its members]** the full authorized  
5 membership of the board may consolidate its county psychiatric  
6 hospitals **[for the insane]** in one place on suitable lands owned by  
7 the county and erect, furnish, and maintain suitable hospital  
8 buildings thereon. County bonds for **[such]** this purpose may be  
9 issued to an amount not exceeding six-tenths of one per cent of the  
10 ratables of the county.

11 (cf: R.S.30:9-6)

12

13 98. R.S.30:9-7 is amended to read as follows:

14 30:9-7. **[Whenever]** If county psychiatric hospitals **[for the**  
15 **insane shall be]** are consolidated as **[authorized]** provided by  
16 **[section]** R.S.30:9-6 **[of this title]**, the **[board of chosen**  
17 **freeholders of such]** county may sell **[any]** its lands and buildings  
18 **[owned by such county and used for the purposes of]** used for a  
19 psychiatric hospital **[for the insane which are located in a part of**  
20 **the county remote from the site of the hospital buildings so**  
21 **consolidated, and which]** that are **[rendered]** unnecessary **[to be**  
22 **used]** for **[such]** hospital purposes, and the sale and conveyance of  
23 **[such]** the lands **[by such board]** shall vest in the purchaser title in  
24 fee to the premises so sold. The proceeds of **[such]** the sale shall  
25 be applied **[by such board]** to the sinking funds of **[such]** the  
26 county or to the redemption of county bonds, and not otherwise.

27 (cf: R.S.30:9-7)

28

29 99. R.S.30:9-8 is amended to read as follows:

30 30:9-8. **[Whenever in any county of this state]** If the board of  
31 chosen freeholders or the governing body of the county **[thereof**  
32 **shall determine]** determines, by a resolution **[which shall receive]**  
33 or ordinance, as appropriate, adopted by the affirmative votes of at  
34 least two-thirds of **[all its members]** the full authorized  
35 membership of the board, that **[any]** a county psychiatric hospital  
36 **[for the insane]** under its management and control is unsuitably  
37 located, and that it is expedient and desirable that the location  
38 thereof should be changed to some other place in its county, **[such**  
39 **board]** the county may make **[such]** the change.

40 (cf: R.S.30:9-8)

41

42 100. R.S.30:9-9 is amended to read as follows:

43 30:9-9. If **[, in the judgment of a board of chosen freeholders]**  
44 the county desiring to change the location of a county psychiatric  
45 hospital **[for the insane]** under authority of **[section]** R.S.30:9-8  
46 **[of this title,]** determines there is no suitable location **[within its**

1 county] at which [such] the hospital might be relocated, and [such  
2 board] desires to locate the hospital in [some other] another county  
3 of this [state] State, it may do so by entering into an agreement  
4 with the [board of chosen freeholders of such] other county, either  
5 to [jointly] build and maintain [such] the hospital jointly, or [that  
6 the board of one county may] to build and maintain the [same]  
7 hospital by one county with the right in the other [board] county to  
8 commit its patients therein, at a sum per week per patient to be  
9 agreed upon.

10 If both [of such boards] counties agree to [jointly] build and  
11 maintain [such] the hospital jointly, they shall [jointly agree]  
12 concur upon the site [thereof], appoint an architect, and approve  
13 [of] plans and specifications, and do and perform [every other  
14 necessary act and thing] everything necessary for [the] completion  
15 of the work [herein] authorized and the maintenance [of the same  
16 after completion] thereafter, including [the] employment of  
17 physicians and other necessary employees [in and about the  
18 institution].

19 If by [the] their agreement [between such boards one board is to  
20 build and maintain such] one county builds and maintains the  
21 hospital, that [board] county shall select the site [therefor],  
22 appoint the architect, and approve [of] the plans and specifications,  
23 and do and perform [every other necessary act and thing]  
24 everything necessary for [the] completion of the work [herein]  
25 authorized, and the maintenance [of the same after completion]  
26 thereafter, including [the] employment of physicians and other  
27 necessary employees [in and about the institution].

28 If [any board concludes] a county decides to change the location  
29 of its hospital, [as aforesaid, the joint boards if they agree to  
30 undertake the work, or the single board, if it is to do the work alone,  
31 either within or without its county,] one or more counties  
32 depending upon their agreement shall have full power and authority  
33 to acquire lands within or without the county by gift, devise,  
34 purchase, or condemnation, [and] to erect suitable buildings  
35 [thereon], and to fit, furnish, and equip the [same] buildings, lay  
36 out the grounds, make provision for [a water supply] utilities and  
37 [railroad] mass transit connections, and do and perform [such other  
38 things as may be] whatever is necessary or [proper to be done in  
39 order] appropriate to establish a modern psychiatric hospital [for  
40 the insane].

41 The [moneys wherewith] funds to acquire [such] the lands,  
42 erect [such] the buildings, and [to do and] perform [all] the work  
43 [and things], including the purchase of materials and fittings,  
44 furnishings, and equipment [herein] authorized, except [that which  
45 might consist in] for maintenance only, shall be raised [and

1 obtained by the board of chosen freeholders of the county if one  
2 only undertakes the doing of the work, or the boards of chosen  
3 freeholders of the two counties undertaking the doing of the work]  
4 by one or more counties doing the work, each to the extent of its  
5 share, by the issue and sale of bonds [therefor and in the manner  
6 and by the methods prescribed by chapter 1 of the title  
7 Municipalities and Counties (s. 40:1-1 et seq.), and shall be] paid  
8 [out] by the county treasurer or treasurers, [as the case may be on  
9 the order of the board of chosen freeholders, as the case may be] in  
10 accordance with the counties' agreement.  
11 (cf: R.S.30:9-9)  
12

13 101. R.S.30:9-11 is amended to read as follows:

14 30:9-11. [Where any work is to be done] If the cost of work  
15 performed and materials [to be] furnished in the [erection and]  
16 construction, fitting, furnishing, and equipping of [ such buildings  
17 or in the fitting, furnishing and equipping of the same,] county  
18 psychiatric hospitals, or [in and about] laying out the grounds, as  
19 provided by [section] R.S.30:9-9 [of this title, where the cost  
20 thereof shall exceed the sum of one thousand dollars] , exceeds  
21 \$1,000, the [same] work shall be [done] performed and materials  
22 furnished on a contract [to be] awarded to the lowest responsible  
23 bidder who shall furnish satisfactory security to the [board or  
24 boards] county or counties undertaking [such] the work, on bids  
25 duly advertised [for] in the county or counties [engaged in the  
26 work, and also where the]. If buildings are to be [erected]  
27 constructed, the advertisement shall be published for at least two  
28 weeks, once in each week; and if joint counties undertake the work  
29 [be undertaken by joint boards], they shall appoint a committee to  
30 advertise [for] and receive [such] the bids[, which committee  
31 shall] and to report the bids to [such boards] their governing  
32 bodies at their next meetings.

33 (cf: R.S.30:9-11)  
34

35 102. R.S.30:9-12 is amended to read as follows:

36 30:9-12. [The board of chosen freeholders in counties] Counties  
37 of the first class, in appointing superintendents for the county  
38 psychiatric hospitals [for the insane], may designate and prescribe  
39 the terms of office of [such] the superintendents, which shall not  
40 [be for a longer time than] exceed five years.

41 (cf: R.S.30:9-12)  
42

43 103. Section 6 of P.L.1976, c.120 (C.30:13-6) is amended to  
44 read as follows:

45 6. [Any] A nursing home resident may arrange for the  
46 resident's own discharge [himself] from a nursing home upon

1 presentation of a written release and, if the resident is [an]  
2 adjudicated [mental incompetent] incapacitated, upon the written  
3 consent of [his] the resident's guardian. In [such] this case, the  
4 nursing home is free from any responsibility for the resident upon  
5 [his] the resident's release. When a nursing home wishes to  
6 transfer or discharge on a nonemergency basis a [competent or an  
7 adjudicated mental incompetent] resident [on a nonemergency  
8 basis] who has mental capacity or a resident who is adjudicated  
9 incapacitated, [it] the nursing home may do so for medical reasons  
10 or for [his] the person's welfare or for that of other residents upon  
11 receiving a written order from the attending physician, or for  
12 nonpayment [of his stay], except as prohibited by Title XVIII or  
13 Title XIX of the Social Security Act, as amended, and [such] the  
14 action shall be recorded in the resident's medical record. When a  
15 transfer or discharge on a nonemergency basis of a resident is  
16 requested by a nursing home, the resident or, in the case of [an] a  
17 resident who is adjudicated [mental incompetent resident]  
18 incapacitated, the guardian, shall be given at least 30 days advance  
19 notice of [such] the transfer or discharge.

20 (cf: P.L.1976, c.120, s. 6)

21

22 104. R.S.34:15-27 is amended to read as follows:

23 34:15-27. An agreement for compensation may be modified at  
24 any time by a subsequent agreement. [A] Upon the application of  
25 any party, a formal award, determination [and rule for], judgment,  
26 or order approving settlement may be reviewed within [2] two  
27 years from the date when the injured person last received a payment  
28 [upon the application of either party] on the ground that the  
29 incapacity of the injured employee has subsequently increased. If  
30 [any] a party entitled to a review under this section shall become  
31 [insane] mentally incapacitated within the [aforesaid 2-year] two-  
32 year period, [his insanity] the mental incapacity shall constitute  
33 grounds for tolling the unexpired balance of the [2-year] two-year  
34 period, which shall only begin to run again after [his coming to or  
35 being of same mind] the party returns to mental capacity. An  
36 award, determination [and rule for], judgment, or order approving  
37 settlement may be reviewed at any time on the ground that the  
38 disability has diminished. In such case, the provisions of [section]  
39 R.S.34:15-19 [of this Title] with reference to medical examination  
40 shall apply.

41 (cf: P.L.1975, c. 319, s.1)

42

43 105. R.S.37:1-6 is amended to read as follows:

44 37:1-6. A marriage or civil union license shall not be issued to a  
45 minor under the age of 18 years, unless the parents or guardian of  
46 the minor, if [there be] any, first certify [under their hands and



1 seals], in the presence of two reputable witnesses, [their] consent  
2 thereto, which [consent] shall be delivered to the licensing officer  
3 issuing the license. [If the parents, or either of them, or guardian of  
4 any such minor shall be of unsound mind, the consent of such  
5 parent or guardian to the proposed marriage or civil union] Consent  
6 to the proposed marriage or civil union by a parent or guardian who  
7 is mentally incapacitated shall not be required.

8 When a minor is under the age of 16 years, the consent required  
9 by this section must be approved in writing by [any] a judge of the  
10 Superior Court, Chancery Division, Family Part [. Said approval  
11 shall be] and filed with the licensing officer.

12 The licensing officer shall transmit to the State registrar all  
13 [such] consents, orders, and approvals [so received by him in the  
14 same manner and] subject to the same penalty as in the case of  
15 marriage or civil union certificates [of marriage or civil union and  
16 marriage or civil union] or licenses.

17 (cf: P.L.2006, c.103, s.10)

18

19 106. R.S.37:1-9 is amended to read as follows:

20 37:1-9. No marriage license shall be issued when, at the time of  
21 making an application therefor, either applicant is [infected with a  
22 venereal disease in a communicable stage, or is] a person currently  
23 adjudicated [mentally incompetent] incapacitated.

24 (cf: P.L.1981, c. 254, s. 1)

25

26 107. Section 3 of P.L.1987, c.291 (C.40:11A-22.2) is amended  
27 to read as follows:

28 3. No person may be appointed as a parking enforcement  
29 officer unless the person:

30 a. is a resident of this State during the term of appointment;

31 b. is able to read, write, and speak the English language [well  
32 and intelligently] proficiently;

33 c. [is of sound mind] has the mental capacity and [in good  
34 health] physical ability to perform the tasks of parking enforcement  
35 officer;

36 d. is of good moral character;

37 e. has not been convicted of any offense involving dishonesty  
38 or which would make [him] the person unfit to perform the duties  
39 of [his] the office.

40 (cf: P.L.1987, c.291, s.3)

41

42 108. R.S.40:65-3 is amended to read as follows:

43 40:65-3. The notice may be served upon all owners residing in  
44 the municipality, personally, or by leaving the same at their usual  
45 place of residence with a member of the family above the age of  
46 fourteen years. In the case of [infants] minors and [incompetents]  
47 incapacitated persons, [such] the notice shall be served upon their

1 guardians; when any real estate is held in trust, upon the trustee;  
2 when held by joint tenants, tenants in common or by the entirety,  
3 upon any one such tenant. If the owner of any **[such]** the real  
4 estate is a nonresident of the municipality, the notice may be served  
5 upon **[him]** the owner personally, or upon **[his]** the owner's agent  
6 in charge of the property, or upon the occupant thereof, or mailed to  
7 the nonresident owner at **[his]** the nonresident owner's last known  
8 post-office address.

9 (cf: R.S.40:65-3)

10

11 109. Section 3 of P.L.1987, c.260 (C.40A:9-154.9) is amended  
12 to read as follows:

13 3. No person may be appointed as a parking enforcement  
14 officer unless, at a minimum, the person:

15 a. Is a resident of this State during the term of appointment;

16 b. Is able to read, write, and speak the English language **[well**  
17 **and intelligently]** proficiently;

18 c. **[Is of sound mind]** Has the mental capacity and **[in good**  
19 **health]** physical ability to perform the tasks of parking enforcement  
20 officer;

21 d. Is of good moral character; and

22 e. Has not been convicted of any offense involving dishonesty  
23 or which would make the person unfit to perform the duties of **[his]**  
24 the office.

25 (cf: P.L.1987, c.260, s.3)

26

27 110. Section 4 of P.L.1988, c.130 (C.42:2A-8.2) is amended to  
28 read as follows:

29 42:2A-8.2. Resignation of registered agent. a. The registered  
30 agent of a domestic limited partnership or a foreign limited  
31 partnership authorized to transact business in this State may resign  
32 by complying with the provisions of this section.

33 b. The registered agent, or, in the case of a registered agent  
34 who is deceased or has been **[declared incompetent]** adjudicated  
35 incapacitated by a court of competent jurisdiction, **[his]** the agent's  
36 legal representative, shall serve a notice of resignation by certified  
37 mail, return receipt requested, upon a general partner or general  
38 partners of the limited partnership at the address last known to the  
39 agent, and shall make an affidavit of **[such]** service. If service  
40 cannot be made, the affidavit shall so state, and shall state briefly  
41 why service cannot be made. The affidavit, together with a copy of  
42 notice of resignation, shall be filed in the Office of the Secretary of  
43 State.

44 c. The resignation shall become effective 30 days after the  
45 filing in the office of the Secretary of State of the affidavit of  
46 service or upon the designation by the limited partnership of a new  
47 registered agent pursuant to this act, whichever is earlier. If the  
48 limited partnership fails to designate a new registered agent within

1 the 30 day period, the limited partnership shall thereafter be deemed  
2 to have no registered agent or registered office in this State, until  
3 the limited partnership files a certificate of change of address of  
4 registered office and registered agent indicating the new registered  
5 office and registered agent.

6 d. If any certificate of change replacing a resigned agent is not  
7 filed, the limited partnership shall, after written demand therefor by  
8 the Secretary of State, forfeit to the State a penalty of **[\$200.00]**  
9 \$200 for each year or part thereof until an agent is appointed. The  
10 Secretary of State may issue a certificate to the Clerk of the  
11 Superior Court that the limited partnership is indebted for the  
12 payment of this penalty. This certificate shall be entered by the  
13 Clerk as a judgment docketed in the Superior Court, and shall have  
14 the same form as a docketed judgment.  
15 (cf: P.L.1988, c.130, s.41)

16  
17 111. Section 30 of P.L.1983, c. 489 (C.42:2A-31) is amended to  
18 read as follow:

19 30. Events of withdrawal of a general partner. Except as  
20 approved by the specific written consent of all partners at the time,  
21 a person ceases to be a general partner of a limited partnership upon  
22 the happening of any of the following events:

23 a. The general partner withdraws from the limited partnership  
24 as provided in section 39 of P.L.1983, c.489 (C.42:2A-40);

25 b. The general partner ceases to be a member of the limited  
26 partnership as provided in section 46 of P.L.1983, c.489 (C.42:2A-  
27 47);

28 c. The general partner is removed as a general partner in  
29 accordance with the partnership agreement;

30 d. Unless otherwise provided in the certificate of limited  
31 partnership, the general partner: (1) makes an assignment for the  
32 benefit of creditors; (2) files a voluntary petition in bankruptcy; (3)  
33 is adjudicated a bankrupt or insolvent; (4) files a petition or answer  
34 seeking for himself any reorganization, arrangement, composition,  
35 readjustment, liquidation, dissolution, or similar relief under any  
36 statute, law, or regulation; (5) files an answer or other pleading  
37 admitting or failing to contest the material allegations of a petition  
38 filed against him in any proceeding set forth in (4) above; or (6)  
39 seeks, consents to, or acquiesces in the appointment of a trustee,  
40 receiver, or liquidator of the general partner or of all or any  
41 substantial part of his properties;

42 e. Unless otherwise provided in the certificate of limited  
43 partnership, 120 days after the commencement of any proceeding  
44 against the general partner seeking reorganization, arrangement,  
45 composition, readjustment, liquidation, dissolution, or similar relief  
46 under any statute, law, or regulation, the proceeding has not been  
47 dismissed, or if within 90 days after the appointment without his  
48 consent or acquiescence of a trustee, receiver, or liquidator of the  
49 general partner or of all or any substantial part of his properties, the

1 appointment is not vacated or stayed, or within 90 days after the  
2 expiration of any **[such]** stay, the appointment is not vacated;

3 f. In the case of a general partner who is a natural person  
4 **[his]** , the partner's death, or the entry by a court of competent  
5 jurisdiction of a judgment adjudicating **[him incompetent]** the  
6 partner incapacitated to manage **[his]** the partner's person or estate;

7 g. In the case of a general partner who is acting as a general  
8 partner by virtue of being a trustee of a trust, the termination of the  
9 trust (but not merely the substitution of new trustee);

10 h. In the case of a general partner that is a separate partnership,  
11 the dissolution and commencement of winding up of the separate  
12 partnership;

13 i. In the case of a general partner that is a corporation, the  
14 filing of a certificate of dissolution, or its equivalent, for the  
15 corporation or the revocation of its charter; or

16 j. In the case of an estate, the distribution by the fiduciary of  
17 the estate's entire interest in the partnership.

18 (cf: P.L.1988, c.130, s.18)

19

20 112. Section 49 of P.L.1983, c.489 (C.42:2A-50) is amended to  
21 read as follows:

22 42:2A-50. Power of personal representative of deceased or  
23 **[incompetent]** incapacitated person; representative or successor of  
24 corporation, trust, or other entity. If a partner who is an individual  
25 dies or a court of competent jurisdiction adjudges **[him]** the partner  
26 to **[be incompetent]** lack the mental capacity to manage **[his]** the  
27 partner's person or **[his]** property, the partner's executor,  
28 administrator, guardian, conservator, or other legal representative  
29 may exercise all the partner's rights for the purpose of settling **[his]**  
30 the partner's estate or administering **[his]** the partner's property,  
31 including any power the partner had to give an assignee the right to  
32 become a limited partner. If a partner is a corporation, trust, or  
33 other entity and is dissolved or terminated, the powers of that  
34 partner may be exercised by its legal representative or successor.

35 (cf: P.L.1983, c.489, s.49)

36

37 113. Section 7 of P.L.1993, c.210 (C.42:2B-7) is amended to  
38 read as follows:

39 7. a. The registered agent of a domestic limited liability  
40 company or a foreign limited liability company authorized to  
41 transact business in this State may resign by complying with the  
42 provisions of this section.

43 b. The registered agent of a foreign or domestic limited  
44 liability company may resign and appoint a successor registered  
45 agent by filing a certificate in the office of the Secretary of State,  
46 stating that it resigns and the name and address of the successor  
47 registered agent. There shall be attached to **[such]** the certificate a  
48 statement executed by the affected limited liability company

1 ratifying and approving [such] the change of registered agent.  
2 Upon [such] filing, the successor registered agent shall become the  
3 registered agent of each limited liability company which has ratified  
4 and approved the substitution and the successor registered agent's  
5 address, as stated in [such] the certificate, shall become the address  
6 of each limited liability company's registered office in this State.  
7 The Secretary of State shall furnish to the successor registered agent  
8 upon request a certified copy of the certificate of resignation. Filing  
9 of the certificate of resignation shall be deemed to be an amendment  
10 of the certificate of formation of the limited liability company  
11 affected thereby and the limited liability company shall not be  
12 required to take any further action with respect thereto, to amend its  
13 certificate of formation under [this act] P.L.1993, c.210 (C.42:2B-1  
14 et seq.).

15 c. The registered agent of a limited liability company may  
16 resign without appointing a successor registered agent by  
17 complying with the following provisions:

18 (1) The registered agent, or, in the case of a registered agent  
19 who is deceased or has been [declared incompetent] adjudicated  
20 incapacitated by a court of competent jurisdiction, [his] the agent's  
21 legal representative, shall serve a notice of resignation by certified  
22 mail, return receipt requested, upon the limited liability company at  
23 the address last known to the agent, and shall make an affidavit of  
24 [such] service. If service cannot be made, the affidavit shall so  
25 state, and shall state briefly why service cannot be made. The  
26 affidavit, together with a copy of notice of resignation, shall be filed  
27 in the office of the Secretary of State.

28 (2) The resignation shall become effective 30 days after filing  
29 the affidavit of service in the office of the Secretary of State or  
30 upon the designation by the limited liability company of a new  
31 registered agent pursuant to [this act] P.L.1993, c.210, whichever  
32 is earlier. If the limited liability company fails to designate a new  
33 registered agent within the 30-day period, the limited liability  
34 company shall thereafter be deemed to have no registered agent or  
35 registered office in this State, until the limited liability company  
36 files a certificate of change of address of registered office and  
37 registered agent indicating the new registered office and registered  
38 agent.

39 (cf: P.L.1997, c.139, s.8.)  
40

41 114. Section 47 of P.L.1993, c.210 (C.42:2B-47) is amended to  
42 read as follows:

43 47. If a member who is an individual dies or a court of  
44 competent jurisdiction adjudges [him] the member to [be  
45 incompetent] lack the mental capacity to manage [his] the  
46 member's person or [his] property, the member's executor,  
47 administrator, guardian, conservator, or other legal representative  
48 may exercise all of the member's rights for the purpose of settling

1 **【his】** the member's estate or administering **【his】** the member's  
2 property, including any power under an operating agreement of an  
3 assignee to become a member and the power given to an assignee  
4 under subsection d. of section 46 of P.L.1993, c.210 (C.42:2B-46).  
5 If a member is a corporation, trust, or other entity and is dissolved  
6 or terminated, the powers of that member may, in addition to the  
7 powers given to an assignee under subsection d. of section 46 of  
8 P.L.1993, c.210 (C.42:2B-46), be exercised by its legal  
9 representative or successor.  
10 (cf: P.L.1998, c.79, s.11)

11

12 115. R.S.42:4-13 is amended to read as follows:

13 42:4-13. **【When】** If a member of a partnership **【has been or shall**  
14 **be adjudged a lunatic】** is adjudicated incapacitated, the court may  
15 **【in an action and】** on application of **【any of the other partners】**  
16 another partner or **【such】** other person as the court shall determine  
17 to be entitled to make the application, dissolve the partnership. The  
18 court may proceed in the action in a summary manner or otherwise.  
19 (cf: P.L.1953, c.40, s.32)

20

21 116. R.S.42:4-14 is amended to read as follows:

22 42:4-14. When a partnership is dissolved as provided by  
23 **【section】** R.S.42:4-13 **【of this Title】**, or is otherwise lawfully  
24 dissolved **【by due course of law】**, and a **【member thereof】** partner  
25 has been **【or shall be adjudged a lunatic】** adjudicated incapacitated,  
26 the guardian of **【such lunatic】** the partner who is incapacitated, in  
27 the name and on behalf of **【his ward】** that partner, may **【join and】**  
28 concur with the other **【members of the partnership】** partners or  
29 other persons interested in disposing of **【all】** the partnership  
30 property, **【in such manner and upon such terms as the court may**  
31 **direct】** as directed by the court.

32 (cf: P.L.1953, c.40, s.33)

33

34 117. R.S.42:4-15 is amended to read as follows:

35 42:4-15. The guardian mentioned in **【section】** R.S.42:4-14 **【of**  
36 **this Title】** may make and execute all **【such】** conveyances and do all  
37 things necessary to effectuate the provisions of this article **【as the**  
38 **court may direct. He】** and shall also dispose of all money or  
39 property **【by him】** received for, from, or on account of the  
40 **【lunatic's】** share or interest in the partnership of the partner who is  
41 mentally incapacitated, as the court may direct.

42 (cf: P.L.1953, c.40, s.34)

43

44 118. Section 13 of P.L.2007, c.92 (C.43:15C-13) is amended to  
45 read as follows:

46 13. The disability benefit coverage provided under a group  
47 policy or policies shall provide a monthly income if the participant

1 becomes totally disabled from occupational or nonoccupational  
2 causes for a period of at least six consecutive months following the  
3 effective date of the coverage. The monthly disability benefit may  
4 be paid by the insurance company so long as the participant remains  
5 disabled up to the [seventieth] 70th birthday, provided the  
6 disability commenced prior to the [sixtieth] 60th birthday. The  
7 benefit shall terminate when the participant is no longer considered  
8 totally disabled or begins to receive retirement benefits.

9 The participant shall be considered totally disabled if the  
10 participant is unable to perform each duty of the participant's  
11 occupation and is under the regular care of a physician. After the 24  
12 months following the commencement of [such] the disability  
13 benefit payments, the participant shall be unable to engage in any  
14 gainful occupation for which the participant is reasonably fitted by  
15 education, training, or experience. Total disability shall not be  
16 considered to exist if the participant is gainfully employed.  
17 Following an agreement with the insurance company and the  
18 policyholder, the participant may continue to receive disability  
19 benefits for a limited time while performing some type of work.  
20 During the period of rehabilitation, the monthly benefit shall be the  
21 regular payment less 80% of the participant's earnings from [such]  
22 the rehabilitative position.

23 A participant shall be deemed to be in service and covered by the  
24 disability benefit insurance provisions for a period of no more than  
25 six months while on official leave of absence without pay if  
26 satisfactory evidence is presented to the Division of Pensions and  
27 Benefits that [such] leave of absence without pay is due to illness  
28 and that the participant was not actively engaged in any gainful  
29 occupation during [such] the period of leave of absence without  
30 pay.

31 Disability benefit insurance provisions of the group policy or  
32 policies shall not cover disability resulting from or contributed to  
33 by pregnancy, act of war, intentionally self-inflicted injury, or  
34 attempted suicide [whether or not sane] regardless of the person's  
35 mental capacity. For purposes of [such] the disability benefit  
36 coverage, the participant shall not be considered to be disabled  
37 while the participant is imprisoned or while outside the United  
38 States, its territories or possessions, or Canada.

39 If the participant has recovered from the disability for which the  
40 member had received benefits and again becomes totally disabled  
41 while insured, the later disability shall be regarded as a continuation  
42 of the prior one unless the participant has returned to full-time  
43 covered employment for at least six months. If the later absence is  
44 due to an unrelated cause and the participant had returned to full-  
45 time work, it shall be considered a new disability. The disability  
46 benefit insurance cannot be converted to an individual policy.

47 No participant shall be covered by the disability benefit  
48 provision of the group policy or policies except upon the

1 completion of one year of full-time continuous employment in a  
2 position eligible for participation in the Defined Contribution  
3 Retirement Program. For a member who is a participant pursuant to  
4 paragraph (5) of subsection a. of section 2 of P.L.2007, c.92  
5 (C.43:15C-2) as amended by section 12 of P.L.2007, c.103 and  
6 section 7 of P.L.2010, c.1, completion of one year of full-time  
7 continuous employment in a position eligible for membership in the  
8 Teachers' Pension and Annuity Fund, Police and Firemen's  
9 Retirement System, State Police Retirement System, or the Public  
10 Employees' Retirement System shall also be considered in  
11 determining if the participant met the requirements of this  
12 paragraph.

13 (cf: P.L.2010, c.1, s.16)

14

15 119. R.S.44:1-1 is amended to read as follows:

16 44:1-1. As used in this chapter:

17 "Almshouse" means a place where the poor are maintained at the  
18 public expense of a municipality or county, which has not  
19 established and does not maintain a welfare-house[;] .

20 "Commissioner" means the [commissioner of institutions and  
21 agencies;] Commissioner of Human Services.

22 "County adjuster" means the official of that designation  
23 authorized to act in the cases of commitment or admission of  
24 [insane] persons who have a mental illness to state or county  
25 psychiatric hospitals [for the insane;] .

26 "May" shall be construed to be permissive[;] .

27 "Municipality" shall not include, in meaning, a county, unless  
28 otherwise indicated by the context, but shall include a city,  
29 borough, township, town, village, or municipality governed by an  
30 improvement commission[;] .

31 "Overseer" means a person who is charged with the  
32 superintendence and relief or removal of the poor within [his] the  
33 overseer's jurisdiction or found in [his] the overseer's  
34 municipality, and means superintendent in all cases where a  
35 superintendent as defined in this section is authorized to act when  
36 there is no overseer[;] .

37 "Permanent or indoor poor" means poor persons who may be  
38 better relieved or maintained and supported under the provisions of  
39 this chapter by commitment to a welfare-house, almshouse, or, with  
40 limitations, in the home[;] .

41 "Poor person" means one who is unable to maintain himself or  
42 those dependent upon him [;] .

43 "Public charge" means a person to whom it is necessary to  
44 furnish proper relief as provided in this chapter[;] .

45 "Settlement of a person" means [his] a person's right under the  
46 provisions of this chapter to relief or maintenance and support in a  
47 municipality, county, or counties[;] .



1 "State board" means the [state board of control of institutions  
2 and agencies;] State Board of Human Services.

3 "Superintendent" means the employee of a welfare board of a  
4 county or district authorized to act for it and under its direction and  
5 to act for overseers where there are none[;] .

6 "Temporary or outdoor poor" means poor persons who can be  
7 relieved temporarily at their domicile or without being maintained  
8 in an almshouse or welfare-house[;] .

9 "Voluntary wards of the county welfare board" means persons  
10 admitted to a county welfare-house on application to the county  
11 welfare board and not supported entirely at public expense[;] .

12 "Welfare board" means the board of one or more counties  
13 authorized to have charge, supervision, and control of a welfare-  
14 house and to supervise through a superintendent such work for or in  
15 relation to the poor as directed or authorized[;] .

16 "Welfare-house" means a place where persons unable to care for  
17 and maintain themselves in whole or in part by reason of age,  
18 infirmity or poverty may be cared for and maintained in whole or in  
19 part at the expense of a county or municipality under the  
20 superintendent of a county welfare board in a county or portion  
21 thereof or districts composed of more than one county or portions  
22 thereof.

23 "District welfare-house" where so mentioned, means one  
24 established and maintained by more than one county or portions  
25 thereof.

26 (cf: R.S.44:1-1)

27

28 120. R.S.44:4-1 is amended to read as follows

29 44:4-1. As used in this chapter:

30 "Almshouse" means a place for the maintenance of the poor at  
31 the public expense of a county or municipality, prior to the  
32 establishment of a welfare-house[;] .

33 "Commissioner" means the [commissioner of institutions and  
34 agencies;] Commissioner of Human Services.

35 "County adjuster" means the official of that designation  
36 authorized to act in the cases of commitment or admission of  
37 [insane] persons who have a mental illness to State or county  
38 hospitals for the insane[;] .

39 "County welfare board" means the board of a single county  
40 authorized to have charge, supervision and control of a county  
41 welfare-house and the administration of the settlement and relief of  
42 the poor for such county and to supervise through a director of  
43 welfare such work for or in relation to the poor as directed or  
44 authorized[;] .

45 "Director of welfare" means an employee of a county welfare  
46 board with authority to act for it and under its direction, and to act  
47 for and in lieu of overseers where there are none, and perform the  
48 functions of and replace the office of overseer[;] .

1 "May" shall be construed to be permissive[;] .

2 "Municipality" shall not include, in meaning, a county, unless  
3 otherwise indicated by the context, but shall include any city,  
4 borough, township, town, village or municipality governed by an  
5 improvement commission.

6 "Permanent or indoor poor," as found in this chapter, shall mean  
7 a disabled person who has been diagnosed by a regular practicing  
8 physician as being unemployable due to a mental or physical  
9 condition, providing such condition is in the physician's opinion of  
10 permanent nature, and further providing that the disabled person is  
11 not eligible for any other type of categorical aid.

12 "Poor person" means a permanently disabled person who is  
13 without means of support as defined above.

14 "Public charge" means a person to whom it is necessary to  
15 furnish proper relief as provided in this chapter[;] .

16 "Settlement of a person" means his right under the provisions of  
17 this chapter to relief or maintenance and support in any county or  
18 counties[;] .

19 "State board" means the State Board of [Control of Institutions  
20 and Agencies;] Human Services.

21 "Temporary or outdoor poor" means poor persons who can be  
22 relieved temporarily at their domicile or without being maintained  
23 in an almshouse or welfare-house[;] .

24 "Welfare-house" means a place where the poor are maintained at  
25 the public expense under the superintendence of a county welfare  
26 board in any county.

27 "Disabled person" means any person entitled to relief under this  
28 chapter.

29 (cf: P.L.1947, c.373, s.1)

30

31 121. R.S.44:7-1 is amended to read as follows:

32 44:7-1. As used in this chapter:

33 "Commissioner" means the Commissioner of [the Department of  
34 Institutions and Agencies] Human Services.

35 "State board" means the State Board of [Control of the  
36 Department of Institutions and Agencies] Human Services.

37 "State division" means the bureau of assistance as set up within  
38 the Department of [Institutions and Agencies] Human Services.

39 "Director of old age assistance" means the chief of the State  
40 bureau of assistance.

41 "Director of welfare" means the director of the county welfare  
42 board.

43 "County welfare board" means the boards established within the  
44 several counties for the purposes of administering welfare to the  
45 needy, whether set up under the authority of this chapter or  
46 pursuant to any other laws of this State.

47 "Assistance" means money payments to or on behalf of eligible  
48 persons.

1 "Old age assistance" means assistance to aged needy persons as  
2 provided by this chapter, and, unless otherwise indicated, includes  
3 all programs of assistance for other specified classes of persons  
4 authorized to be administered by or through the county welfare  
5 boards.

6 "County adjuster" means the official of that designation  
7 authorized to act in cases of commitment or admission of **[insane]**  
8 persons who have a mental illness to State or county hospitals for  
9 the insane.

10 "Federal aid" means grants-in-aid to the State as provided for in  
11 the Federal Social Security Act, approved August 14, 1935, as  
12 amended.

13 "Institution" means any establishment, whether in single or  
14 multiple dwellings, whether public or private, whether incorporated  
15 or unincorporated, whether for profit or nonprofit, operated at the  
16 direction of or under the management of an individual or  
17 individuals, corporation, partnership, society, or association, which  
18 furnishes food and shelter for 4 or more persons unrelated to the  
19 proprietor and which provides medical or nursing service or any  
20 other personal care or service beyond food, shelter, and laundry, to  
21 any 1 or more of such persons.

22 (cf: P.L.1962, c.222, s.9)

23

24 122. Section 1 of P.L.1964, c.155 (C.44:11-1) is amended to  
25 read as follows:

26 1. As used in **[this act]** P.L.1964, c.155 (C.44:11-1 et seq.):

27 "Court" means the Superior Court in the county whose welfare  
28 board is responsible for making payments of public assistance to or  
29 for the benefit of the recipient or, in cases where a representative  
30 payee has been appointed pursuant to **[this act]** P.L.1964, c.155,  
31 the Superior Court having made such appointment.

32 "Functionally **[incompetent]** incapacitated" means subject to a  
33 mental, physical, or emotional condition which renders the  
34 individual incapable of receiving and utilizing payments of public  
35 assistance in a manner conducive to the health and well-being of  
36 **[himself]** the individual and **[his]** the individual's dependents.

37 "Representative payee" means a person appointed by a court to  
38 act for a recipient to the extent of receiving and administering  
39 payments of public assistance.

40 "Public assistance" means "old age assistance" and "disability  
41 assistance" as authorized by Revised Statutes, Title 44, chapter 7;  
42 "blind assistance" as authorized by Revised Statutes, Title 30,  
43 chapter 6; "assistance for dependent children" as authorized by  
44 chapter 86, laws of 1959; together with amendments and  
45 supplements to any of the foregoing; and any other program  
46 administered through the county welfare boards, by whatever name  
47 now or hereafter known, which is authorized to provide financial  
48 assistance to needy persons in the form of money payments.

1 "Recipient" means a person who has been found eligible to  
2 receive payments of public assistance.

3 "Welfare board" means the county welfare board or board of  
4 social services responsible for making payments of public  
5 assistance to or for the benefit of the recipient.

6 (cf: P.L.1991, c.91, s.446)

7

8 123. Section 2 of P.L.1964, c.155 (C.44:11-2) is amended to  
9 read as follows:

10 2. Whenever it appears necessary to appoint a representative  
11 payee for a recipient who is functionally **[incompetent]**  
12 incapacitated, a complaint seeking such appointment may be filed  
13 with the court by the welfare board. The complaint shall set forth  
14 the name, age, and place of residence of the recipient; the name and  
15 place of residence of the nearest relative of the recipient, if known;  
16 and that the recipient has been found otherwise eligible to receive a  
17 grant of public assistance.

18 (cf: P.L.1964, c.155, s.2)

19

20 124. Section 3 of P.L.1964, c.155 (C.44:11-3) is amended to  
21 read as follows:

22 3. A verified statement by the director of the welfare board, or  
23 **[his]** the director's authorized representative, annexed to the  
24 complaint and setting forth that a review by the **[State Bureau of**  
25 **Assistance]** Division of Family Services in the Department of  
26 Human Services indicates that the recipient is functionally  
27 **[incompetent]** incapacitated, shall be prima facie evidence of the  
28 necessity for the appointment.

29 (cf: P.L.1964, c.155, s.3)

30

31 125. Section 4 of P.L.1964, c.155 (C.44:11-4) is amended to  
32 read as follows:

33 4. Upon the filing of a complaint and verified statement as  
34 provided by **[this act]** P.L.1964, c.155 (C.44:11-1 et seq.), the court  
35 shall proceed in a summary manner to hear testimony for the  
36 purpose of determining whether the recipient is functionally  
37 **[incompetent]** incapacitated. The written certification of **[2]** two  
38 physicians who have been in the actual practice of medicine and  
39 surgery in this State for at least **[5]** five years shall be sufficient,  
40 but not required, evidence to establish **[such]** the condition of the  
41 recipient. If the court is satisfied that the recipient is functionally  
42 **[incompetent]** incapacitated, **[such]** the court shall appoint a fit  
43 and proper person as representative payee for **[such]** the recipient.

44 (cf: P.L.1964, c.155, s.4)

45

46 126. Section 7 of P.L.1964, c.155 (C.44:11-7) is amended to  
47 read as follows:

1       7. (a) When at a hearing held upon application of the recipient  
2 the court determines from the certification of **[2] two** physicians, or  
3 other acceptable evidence, that the recipient is no longer  
4 functionally **[incompetent] incapacitated**, the court may discharge  
5 the representative payee.

6       (b) Whenever it appears upon application and good cause shown  
7 by the representative payee or the welfare board that **[such] the**  
8 representative payee should be relieved of **[his] the representative**  
9 payee's duties, the court may discharge **[such] the** representative  
10 payee and, if the circumstances still require, appoint **[in his stead**  
11 **some other fit and proper person]** a replacement for the  
12 representative payee.

13 (cf: P.L.1964, c.155, s.7)

14

15       127. Section 6 of P.L.1985, c.256 (C.45:14B-36) is amended to  
16 read as follows:

17       6. A valid authorization for the purpose of **[this act] P.L.1985,**  
18 c.256 (C.45:14B-30 et seq.) shall:

19       a. Be in writing;

20       b. Specify the nature of the information to be disclosed, the  
21 person authorized to disclose the information, to whom the  
22 information may be disclosed, the specific purposes for which the  
23 information may be used, both at the time of disclosure and at any  
24 time in the future;

25       c. Specify that the patient is aware of the statutory privilege  
26 accorded by section 28 of P.L.1966, c.282 (C.45:14B-28) to  
27 confidential communications between a patient and a licensed  
28 psychologist;

29       d. State that the consent is subject to revocation at any time;

30       e. Be signed by the patient or the person authorizing the  
31 disclosure. If the patient is adjudicated **[incompetent]**  
32 incapacitated or is deceased, the authorization shall be signed by the  
33 patient's legally authorized representative. When the patient is  
34 more than 14 years of age but has not yet reached **[the age of]**  
35 majority, the authorization shall be signed by the patient and by the  
36 patient's parent or legal guardian. When the patient is less than 14  
37 years of age, the authorization shall be signed only by the patient's  
38 parent or legal guardian; and

39       f. Contain the date upon which the authorization was signed.

40 (cf: P.L.1985, c.256, s.6)

41

42       128. Section 1 of P.L.1953, c.269 (C.47:3-9) is amended to read  
43 as follows:

44       1. Whenever papers **[of the character hereinafter] as** described  
45 herein have been on file in the office of **[any] the** county clerk or  
46 register of deeds and mortgages for more than the number of years  
47 specified, the county clerk or register of deeds and mortgages, **[as**

1 the case may be], having charge thereof, may direct [such] the  
2 papers [to] be removed and destroyed [or the records therein  
3 otherwise effectively obliterated], subject, however, to the  
4 limitations imposed herein [in respect to said papers].

5 The following [are the papers which] may be removed and  
6 destroyed [or the records therein effectively obliterated] pursuant  
7 to the provisions of this act:

8 (a) Admissions to the bar, notices of intention to apply for  
9 [such] admissions, after one year;

10 (b) Appeals, notices [of] from local criminal courts, and other  
11 papers incidental thereto, where [such] the appeals were not heard  
12 and disposed of by specific court action, after five years;

13 (c) Bills of sale upon condition and other papers in the nature of  
14 conditional bills of sale, after six years; provided their expiration  
15 dates occurred prior to [said] the six years; and further provided, if  
16 their expiration dates shall have been extended by the acts of the  
17 parties and notice of [such] the acts shall have been given to the  
18 county recording officer, then after six years from their expiration  
19 dates as so extended; and further provided, that bills of sale under  
20 seal, after twenty-two years instead of after six years;

21 (d) Bonds given as bail and recognizances in connection with or  
22 in lieu of bail, and discharges of the same, after six years; provided  
23 notations thereof have been entered on the dockets;

24 (e) Bonds under orders of filiation, after twenty years;

25 (f) Certificates of authority filed by insurance and bonding  
26 companies, after six years;

27 (g) Chattel mortgages, after six years; provided their expiration  
28 dates occurred prior to [said] the six years; and further provided, if  
29 their expiration dates shall have been extended by the acts of the  
30 parties and notice of [such] the acts shall have been given to the  
31 county recording officer, then after six years from their expiration  
32 dates as so extended; and further provided, that chattel mortgages  
33 under seal, after twenty-two years instead of after six years;

34 (h) Contracts, plans, and specifications for the construction of  
35 buildings and other structures except for public buildings, after ten  
36 years;

37 (i) Convictions of disorderly persons, after five years;

38 (j) Costs, bills of costs taxed by the clerk, both civil and  
39 criminal, after twenty years; provided notations thereof have been  
40 entered on the dockets;

41 (k) Depositions, which are not within the scope of any  
42 applicable court rule and which do not pertain to any pending court  
43 action or proceeding, after ten years;

44 (l) Delinquent municipal tax returns for real and personal  
45 property and discharges therefor, after twenty years;

46 (m) Elections returns, certificates of, and all other papers relating  
47 to elections, including primary petitions, returns for primary and

- 1 general elections, and statements of candidates' campaign managers  
2 and treasurers, after five years;
- 3 (n) Executions returned by the sheriff, both satisfied and  
4 unsatisfied, after twenty years; provided notations thereof have  
5 been entered on the dockets;
- 6 (o) Extradition papers including applications for writs of habeas  
7 corpus, except judgments thereon, after five years;
- 8 (p) Indictments, accusations, informations, and complaints in  
9 the nature thereof, if nolle prossed, or if the defendant charged  
10 thereby has been convicted or acquitted, or if the court has  
11 otherwise disposed of the same, after five years;
- 12 (q) Inquests conducted by the coroners, and their reports, and  
13 other papers relating to sudden deaths, after ten years;
- 14 (r) Insolvency proceedings, assignments for the benefit of  
15 creditors, inventories in **[such]** the proceedings, discharges of  
16 insolvents, and other papers relating or incidental to insolvency  
17 proceedings, after twenty years;
- 18 (s) Institutions and agencies, commitments other than in  
19 criminal or **[lunacy]** mental incapacity cases, reports, and other  
20 papers relating to institutions and agencies, after thirty years;
- 21 (t) Judgment transcripts for docketing, after twenty years;  
22 provided notations thereof have been entered on the dockets;
- 23 (u) Judgments, satisfactions and discharges, and releases of  
24 judgments, after twenty years; provided notations thereof have been  
25 entered on the dockets;
- 26 (v) Juries, lists of Grand and petit juries, and other papers  
27 relating to summoning, impaneling, and the charging of **[such]** the  
28 juries, after five years;
- 29 (w) Justices of the peace bonds, dockets, files, and papers, after  
30 twenty years;
- 31 (x) Licenses for hunting, including applications, after two years;
- 32 (y) Lien notices and claims other than mechanics' lien claims,  
33 and other than lien notices or notices in the nature of lien notices  
34 filed by any State, county, or municipal agency, after six years;
- 35 (z) Lists of causes for trial calendars, including notices of trial,  
36 after one year;
- 37 (aa) **[Lunacy proceedings]** Proceedings for commitments to  
38 psychiatric institutions, including medical and other reports relating  
39 thereto, after thirty years;
- 40 (bb) Mechanics' lien and construction lien claims, notices of  
41 intention, notices of unpaid balance and right to file lien, stop  
42 notices, and all papers relating to mechanics' lien and construction  
43 lien claims, other than proceedings and actions in the courts brought  
44 to enforce **[such]** the lien claims, after six years;
- 45 (cc) Notary public certificates and qualifying papers, after five  
46 years;

1 (dd) Notices and other papers, authorized or required by law to  
2 be filed but not recorded and not involving title to real or personal  
3 property or to proceedings or actions in any court, after ten years;

4 (ee) Oaths of office of persons whose incumbency in office has  
5 ceased, after five years; provided the term of office of **[such]** the  
6 person expired prior to **[said]** the five years;

7 (ff) Permits to carry firearms which have expired, including the  
8 applications therefor, after two years;

9 (gg) Prison records and reports and papers relating thereto, after  
10 five years;

11 (hh) Probation reports and papers relating thereto, after five  
12 years;

13 (ii) Referees' reports, not forming a part of the record of a  
14 proceeding or action in court, after six years;

15 The **[said]** several periods of time shall be computed from the  
16 date of the filing of **[said]** the papers.

17 The county clerk and the register of deeds and mortgages **[,**  
18 respectively, in his discretion,**]** may retain on file **[in his office]**  
19 any of the **[said]** papers as a part of the permanent records of  
20 **[such]** the office.

21 (cf: P.L.1953, c.269, s.1)

22

23 129. R.S.48:12-151 is amended to read as follows:

24 48:12-151. All actions accruing from injuries to persons caused  
25 by the wrongful act, neglect, or default of any railroad company  
26 owning or operating any railroad within this State, shall be  
27 commenced and sued within **[2]** two years next after the cause of  
28 action accrued, and not after, except for injuries to **[infants]** minors  
29 and **[incompetents]** incapacitated persons occurring subsequent to  
30 the effective date of **[this act]** R.S.48:12-151. Actions by an  
31 executor or administrator for injuries causing the death of the  
32 testator or intestate shall be commenced and sued within **[2]** two  
33 years next after the death, and not after. All actions for injury done  
34 to any property by fire communicated by an engine of any railroad  
35 company of any railroad within this State shall be commenced and  
36 sued within **[2]** two years after the cause of action accrued, and not  
37 after, except that action for injury occurring after the effective date  
38 of this act shall be commenced within **[6]** six years after the cause  
39 of action accrued, and not thereafter.

40 (cf: P.L.1962, c.198, s.157)

41

42 130. Section 7 of P.L.1971, c.317 (C.52:4B-7) is amended to  
43 read as follows:

44 7. Hearings on appeals from decisions of the Victims of Crime  
45 Compensation Agency involving issues of victim compensation  
46 shall be conducted by the Victims of Crime Compensation Review  
47 Board in the following manner:



1 a. Upon an application made to the board under the provisions  
2 of the "Criminal Injuries Compensation Act of 1971," P.L.1971,  
3 c.317, the board shall fix a time and place for a hearing on **[such]**  
4 the application and shall cause notice thereof to be given to the  
5 applicant.

6 b. For the purpose of carrying out the provisions of the  
7 "Criminal Injuries Compensation Act of 1971," P.L.1971, c.317, the  
8 board, or any member thereof, may hold **[such]** hearings, sit, and  
9 act at **[such]** times and places, and take **[such]** testimony as the  
10 board or **[such]** any member may deem advisable. Any member of  
11 the board may administer oaths or affirmations to witnesses. The  
12 board shall have full powers of subpoena and compulsion of  
13 attendance of witnesses and production of documents, except that  
14 no subpoena shall be issued except under the signature of a  
15 member of the board, and application to any court for aid in  
16 enforcing **[such]** the subpoena may be made in the name of the  
17 board by any member thereof. Subpoenas shall be served by any  
18 person designated by the board.

19 c. In any case in which the person entitled to make an  
20 application is a child, the application may be made on **[his]** the  
21 person's behalf by **[his]** the person's parent, guardian, or advocate.  
22 In any case in which the person entitled to make an application is  
23 **[mentally incompetent]** incapacitated, the application may be made  
24 on **[his]** the person's behalf by **[his]** the guardian, advocate, or  
25 **[such]** other individual authorized to administer **[his]** the person's  
26 estate.

27 d. Any person having a substantial interest in a proceeding may  
28 appear, produce evidence, and cross-examine witnesses in person or  
29 by **[his]** attorney.

30 e. The board may receive in evidence any statement, document,  
31 information, or matter that may in the opinion of the board  
32 contribute to its functions under the "Criminal Injuries  
33 Compensation Act of 1971," P.L.1971, c.317, but the board shall  
34 not be bound by the rules of evidence.

35 f. If any person has been convicted of any offense with respect  
36 to an act or omission on which a claim under the "Criminal Injuries  
37 Compensation Act of 1971," P.L.1971, c.317 is based, proof of that  
38 conviction shall be taken as conclusive evidence that the offense  
39 has been committed, unless an appeal or any proceeding with regard  
40 thereto is pending.

41 (cf: P.L.2007, c.95, s.8.)

42  
43 131. R.S.52:14-13 is amended to read as follows:

44 52:14-13. **[Whenever]** When an officer of this **[state]** State or a  
45 member of a **[state]** State board or commission **[appears to be**  
46 insane and is committed to an institution for the insane pursuant to  
47 law] is unable to perform the duties of the commission or

1 appointment because of mental incapacity, the commission or  
2 appointment of **[such]** the officer or member shall become vacated  
3 and void, and a vacancy shall thereupon exist in **[such]** the office,  
4 the same as though the officer or member had resigned or died.  
5 (cf: R.S.52:14-13)

6  
7 132. Section 1 of P.L.2002, c.118 (C.52:17B-139.7) is amended  
8 to read as follows:

9 1. A licensed pharmacist or other provider of oxygen or an  
10 oxygen delivery system who has supplied oxygen or an oxygen  
11 delivery system to a patient on an order from a licensed health care  
12 provider shall notify the appropriate fire department or company  
13 serving the municipality in which the patient resides of the name  
14 and address of the patient and the existence of the oxygen or  
15 oxygen delivery system at the patient's residence, in accordance  
16 with the provisions of **[this act]** P.L.2002, c.118 (C.52:17B-139.7  
17 et seq.).

18 a. Prior to notification, a pharmacist or other provider of  
19 oxygen or an oxygen delivery system shall inform the patient of the  
20 notification requirements of this act and obtain written informed  
21 consent from the patient for the notification.

22 If the patient is legally **[incompetent]** incapacitated, the  
23 pharmacist or other provider of oxygen or an oxygen delivery  
24 system shall inform an authorized representative of the patient of  
25 the notification requirements of **[this act]** P.L.2002, c.118 and  
26 obtain the written informed consent from the authorized  
27 representative.

28 b. Written informed consent shall consist of a statement, on a  
29 form or in a manner to be determined by the Director of the  
30 Division of Consumer Affairs in the Department of Law and Public  
31 Safety, signed by the patient or by an authorized representative of  
32 the patient, which acknowledges that the pharmacist or other  
33 provider of oxygen or an oxygen delivery system has provided the  
34 patient with information regarding the notification requirements of  
35 **[this act]** P.L.2002, c.118, and that the patient or authorized  
36 representative of the patient consents to the notification.

37 c. If the patient or **[his]** the patient's authorized representative  
38 declines to give **[his]** informed consent for the notification, the  
39 pharmacist or other provider of oxygen or an oxygen delivery  
40 system is required to inform the patient or **[his]** the patient's  
41 authorized representative that the patient is obligated to notify the  
42 appropriate fire department or company of the patient's name and  
43 address and of the existence of oxygen or an oxygen delivery  
44 system at **[his]** the patient's residence.

45 d. If the patient or **[his]** the patient's authorized representative  
46 declines to give **[his]** informed consent, the pharmacist or other  
47 provider of oxygen or an oxygen delivery system is exempt from  
48 the requirement to make the notification and is permitted to supply

1 the oxygen or oxygen delivery system as directed by the licensed  
2 health care provider's order.

3 e. A copy of the written informed consent shall be attached to  
4 the order for the oxygen or oxygen delivery system or otherwise  
5 included in the patient's record or, if written consent is not given,  
6 the pharmacist or other provider of oxygen or an oxygen delivery  
7 system shall note on the order or in the patient's record that  
8 informed consent was not given.

9 f. A pharmacist or other provider of oxygen or an oxygen  
10 delivery system who complies with the provisions of this act shall  
11 be immune from civil liability if the patient fails to notify the  
12 appropriate fire department or company of the patient's name and  
13 address and the existence of oxygen or an oxygen delivery system  
14 at the patient's residence.

15 (cf: P.L.2002, c.118, s.1)

16

17 133. Section 2 of P.L.1985, c.298 (C.52:27G-21) is amended to  
18 read as follows:

19 2. The Legislature finds and declares that private guardianship  
20 for an **[incompetent]** elderly adult who is incapacitated may not be  
21 feasible where there are no willing and responsible family members  
22 or friends to serve as guardian, that **[this act]** P.L.1985, c.298  
23 (C.52:27G-20 et seq.) establishes a public guardianship program for  
24 elderly adults for the purpose of furnishing guardianship services to  
25 elderly persons at reduced or no cost when appropriate, and that  
26 **[this act]** P.L.1985, c.298 intends to promote the general welfare  
27 by establishing a public guardianship system that permits elderly  
28 persons to determinatively participate as fully as possible in all  
29 decisions that affect them.

30 (cf: P.L.1989, c.248, s.1)

31

32 134. R.S.54:5-84 is amended to read as follows:

33 R.S.54:5-84. If a delinquent owner or lienor **[shall be, at the**  
34 **time of the]** is under the age of 18, a person with an intellectual  
35 disability, or a person who has been adjudicated incapacitated and  
36 in need of a guardianship available under Title 3B of the New  
37 Jersey Statutes, upon expiration of the time [limited] limit for the  
38 redemption of the real estate in which **[he is interested, an infant**  
39 **under the age of twenty-one years, or a person with an intellectual**  
40 **disability, or who has been judicially adjudged a person in need of a**  
41 **guardian]** that person has an interest, the right to redeem shall not  
42 be barred by service of notice as provided in this article so long as  
43 **[such impediment shall continue]** the minority, disability, or  
44 incapacity continues, but shall be barred only by an action to  
45 foreclose brought in the Superior Court.

46 (cf: P.L.2010, c.50, s.82)

1 135. N.J.S.59:8-8 is amended to read as follows:

2 59:8-8. Time for presentation of claims. A claim relating to a  
3 cause of action for death or for injury or damage to person or to  
4 property shall be presented as provided in this chapter not later than  
5 the ~~【ninetieth】~~ 90th day after accrual of the cause of action. After  
6 the expiration of six months from the date notice of claim is  
7 received, the claimant may file suit in an appropriate court of law.  
8 The claimant shall be forever barred from recovering against a  
9 public entity or public employee if:

10 a. ~~【He】~~ The claimant failed to file ~~【his】~~ the claim with the  
11 public entity within 90 days of accrual of ~~【his】~~ the claim except as  
12 otherwise provided in ~~【section】~~ N.J.S.59:8-9; or

13 b. Two years have elapsed since the accrual of the claim; or

14 c. The claimant or ~~【his】~~ the claimant's authorized  
15 representative entered into a settlement agreement with respect to  
16 the claim.

17 Nothing in this section shall prohibit ~~【an infant or incompetent】~~  
18 a minor or a person who is mentally incapacitated from  
19 commencing an action under this act within the time limitations  
20 contained herein, after ~~【his coming to or being of full age】~~  
21 reaching majority or ~~【sane mind】~~ returning to mental capacity.

22 (cf: P.L.1994, c.49, s.4)

23

24 136. The following are repealed:

25 R.S.30:9-1.1;

26 R.S.30:9-2;

27 R.S.30:9-29;

28 R.S.44:5-11; and

29 R.S.44:5-19.

30

31 137. This act shall take effect immediately.

32

33

34

#### STATEMENT

35

36 This bill deletes references to pejorative and archaic language  
37 that is used in the State statutes when referring to persons with  
38 developmental, cognitive, or psychiatric disabilities. Terms such as  
39 "lunatic," "insane," "unsound mind," and "incompetent," when used  
40 pejoratively, have been replaced with more respectful language that  
41 refers to a person's mental capacity. The replacement of the  
42 pejorative terms is not intended to change the meaning of the  
43 various sections of the law amended by the bill.

44 The bill also amends the definition of "incapacitated individual"  
45 in Title 3B of the New Jersey Statutes to replace the term "mental  
46 deficiency" with "intellectual disability"; P.L.2010, c.50, which  
47 eliminated references to "mental retardation" in the State statutes  
48 added a definition for "intellectual disability" in section 13 of

1 P.L.1965, c.59 (C.30:4-25.1). To maintain consistency with the  
2 definition of "incapacitated individual," the bill uses that term  
3 throughout Title 3B when pejorative language is replaced in that  
4 title.

5 Additionally, consistent with P.L.2010, c.50, the bill uses "first-  
6 person language" when referring to persons with mental incapacity  
7 in order to emphasize a person's value, individuality, dignity, and  
8 capabilities. The bill also uses gender-neutral terms in most  
9 instances, updates names of agencies, eliminates anachronistic  
10 language, and includes technical amendments to N.J.S.2A:14-21  
11 and section 3 of P.L.1972, c.81 (C.9:17B-3) to reflect the decision  
12 of the New Jersey Supreme Court in Green v. Auerbach Chevrolet,  
13 127 N.J. 591 (1992), which clarified the age of majority as 18.

14 Further, the bill repeals the following statutes which are no  
15 longer operative:

16 -- R.S.30:9-1.1, concerning the issuance of bonds for county  
17 psychiatric hospitals, which has been superseded by the "Local  
18 Bond Law," P.L.1960, c.169 (40A-2.1 et seq.);

19 -- R.S.30:9-2, concerning judicial appointment of architects,  
20 since judges are no longer involved in public construction projects;

21 -- R.S.30:9-29, concerning aid for county hospitals caring for  
22 persons with communicable diseases, since these types of hospitals  
23 no longer exist;

24 -- R.S.44:5-11, concerning annual appropriations by counties to  
25 maintain patients in nonprofit hospitals and clinics; and

26 -- R.S.44:5-19, concerning annual appropriations by certain  
27 counties to maintain patients in hospitals that are privately owned or  
28 supported by private charity.

29 The bill is based on the "Final Report Relating to Pejorative  
30 Terms Regarding Persons who are Mentally Incapacitated," which  
31 was issued by the New Jersey Law Revision Commission in  
32 September 2011.

SENATE HEALTH, HUMAN SERVICES AND SENIOR  
CITIZENS COMMITTEE

STATEMENT TO

**SENATE, No. 2224**

with committee amendments

**STATE OF NEW JERSEY**

DATED: DECEMBER 17, 2012

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with amendments Senate Bill No. 2224.

As amended by the committee, this bill deletes references to pejorative and archaic language that is used in the State statutes when referring to persons with developmental, cognitive, or psychiatric disabilities. Terms such as “lunatic,” “insane,” “unsound mind,” and “incompetent” have been replaced with more respectful language that refers to a person's mental capacity. The replacement of the pejorative terms is not intended to change the meaning of the various sections of the law amended by the bill.

The bill also amends the definition of “incapacitated individual” in Title 3B of the New Jersey Statutes to replace the term “mental deficiency” with “intellectual disability.” P.L.2010, c.50, which eliminated references to “mental retardation” in the State statutes, added a definition of “intellectual disability” in section 13 of P.L.1965, c.59 (C.30:4-25.1). To maintain consistency with the definition of “incapacitated individual,” the bill uses that term throughout Title 3B when pejorative language is replaced in that title.

Additionally, consistent with P.L.2010, c.50, the bill uses “person-first” language when referring to persons with mental incapacity in order to emphasize a person's value, individuality, dignity, and capabilities. The bill also uses gender-neutral terms in most instances, updates names of agencies, eliminates anachronistic language, and includes technical amendments to N.J.S.2A:14-21 and section 3 of P.L.1972, c.81 (C.9:17B-3) to clarify that the age of majority is 18, consistent with the decision of the New Jersey Supreme Court in Green v. Auerbach Chevrolet, 127 N.J. 591 (1992).

Further, the bill repeals the following statutes, which are no longer operative:

-- R.S.30:9-1.1, concerning the issuance of bonds for county psychiatric hospitals, which has been superseded by the “Local Bond Law,” P.L.1960, c.169 (40A-2.1 et seq.);

-- R.S.30:9-2, concerning judicial appointment of architects, since judges are no longer involved in public construction projects;

-- R.S.30:9-29, concerning aid for county hospitals caring for persons with communicable diseases, since this type of hospital no longer exist;

-- R.S.44:5-11, concerning annual appropriations by counties to maintain patients in nonprofit hospitals and clinics; and

-- R.S.44:5-19, concerning annual appropriations by certain counties to maintain patients in hospitals that are privately owned or supported by private charity.

The committee amendments delete from the bill two sections of law that were repealed by P.L.2012, c.50 and correct a statutory reference.