

LEGISLATIVE HISTORY OF R.S. 30:4-7.1 to 7.6  
(Medical care for incompetents and minors - physician certify)

Previous bills introduced (1965-1969):

COPY No. 2

- 1968 - A526 (Thomas and others) (Bill with statement enclosed)  
Died in Assembly Committee.
- 1968 - S578 (McDermott, La Corte, Rinaldi) (enclosed)  
Passed in Senate.  
Died in Assembly.

Both above bills listed as "approved" in:

974.905      Journal of the Medical Society of  
M49              New Jersey, Vol. 65, 1968, p. 337.

L. 1969 - C.181 - S222.

Pre-filed for introduction by McDermott, LaCorte and Rinaldi  
February 17 - Passed in Senate.  
May 1 - Passed in Assembly  
November 5 - Approved, chapter 181.  
Not amended during passage.  
No statement.

Listed as "APPROVED" in:

974.905      Journal of the Medical Society of  
M49              New Jersey, Vol. 66, 1969, p. 182.

We searched the following without success.

Vertical File—New Jersey—Medicine.

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SENATE, No. 578

STATE OF NEW JERSEY

INTRODUCED MARCH 18, 1968

By Senators McDERMOTT, LACORTE and RINALDO

Referred to Committee on Institutions and Welfare

AN ACT concerning medical, psychiatric, surgical and dental treatment for legally disabled incompetents and minors in State and county mental and correctional institutions and authorizing the chief executive officer thereof, under appropriate circumstances, to consent to such treatment and supplementing Title 30 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. It is hereby declared to be the public policy of this State  
2 to make maximum provision for the health, safety and welfare of  
3 incompetent patients in State and county institutions for the men-  
4 tally ill and mentally retarded, and for inmates under age 21 in State  
5 and county penal and correctional institutions, by permitting the  
6 chief executive officer of such institution to consent to the utilization  
7 of appropriate medical, psychiatric, surgical and dental treatment  
8 for such patients and inmates where prescribed by a licensed  
9 physician or dentist as provided for herein.

1 2. The chief executive officer of a State or county institution  
2 for the mentally ill, mentally retarded or of a State or county penal  
3 or correctional institution is hereby authorized to give consent for  
4 medical, psychiatric, surgical or dental treatment to incompetent  
5 patients, or inmates under age 21, hospitalized or confined therein  
6 under circumstances where it appears that

7 (a) Such patients or inmates, because of incompetency or nonage,  
8 are legally prevented from giving consent to such treatment, and

9 (b) Either:

10 (i) there is no parent or guardian known to such officer,  
11 after reasonable inquiry, who is competent to give consent for  
12 the treatment of mental patients, or of inmates under the age  
13 of 21, 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.**

14 (ii) where a parent or guardian, after reasonable notice of  
 15 the proposed treatment and a request for consent, and prior  
 16 to the date fixed in such notice for the rendering of said treat-  
 17 ment, refuses or neglects to execute and submit to such officer  
 18 a writing expressing either the grant or denial of such consent,  
 19 and

20 (c) Where a licensed physician, psychiatrist, surgeon or dentist  
 21 certifies that the treatment to be performed is essential and bene-  
 22 ficial to the general health and welfare of such patient or inmate, or  
 23 will improve his opportunity for recovery or prolong or save his  
 24 life.

1 3. In a case certified by a licensed physician, surgeon, psychi-  
 2 atrist or dentist to be one of grave emergency and to require im-  
 3 mediate surgical intervention or other treatment in order to  
 4 prevent the death of, or serious consequences to such patient or  
 5 inmate, the chief executive officer is hereby authorized to consent  
 6 to such medical, psychiatric, surgical or dental treatment to such  
 7 patient or inmate as recommended and prescribed by such certifi-  
 8 cation.

1 4. Notice of required treatment shall be given to a parent or  
 2 guardian of such patient or inmate by certified mail to the last  
 3 known address with a request for consent, and such notice shall  
 4 contain sufficient information to indicate the precise nature of the  
 5 illness and the proposed treatment and the date same will be per-  
 5A formed, and shall be sent at least 10 days in advance of the date  
 6 recommended for such treatment unless the case is one certified to  
 7 be emergent, as provided hereinabove, in which case the parent or  
 8 guardian shall be given the maximum advance notice possible under  
 9 the circumstances. For the purposes of this act, such notice shall  
 10 be deemed reasonable notice.

1 5. Under all of the foregoing circumstances, the chief executive  
 2 officer, granting such consent in the exercise of his discretion, upon  
 3 the recommendation contained in the medical, psychiatric, surgical  
 4 or dental certification, shall be exempt from personal liability in  
 5 the performance of such public duty.

1 *\*6. Nothing herein shall be so construed as to give authority to*  
 2 *the chief executive officer of any institution to supervise, regulate*  
 3 *or control the remedial care or treatment of individual patients*  
 4 *who are adherents of any well recognized church or religious de-*  
 5 *nomination which subscribes to the art of healing by prayer and*  
 6 *the principles of which are opposed to medical treatment.\**

1 **\*[6.]** \*7.\* This act shall take effect immediately.

ASSEMBLY, No. 526

STATE OF NEW JERSEY

INTRODUCED MARCH 18, 1968

By Assemblymen THOMAS, McLEON, DIGIAMMO, COBB,  
VREELAND, KASER, W. F. SMITH, KALTENBACHER,  
RUSSO, RINALDI, DENNIS, WILSON, HOLLENBECK  
and VOLK

Referred to Committee on Institutions and Welfare

AN ACT concerning medical, psychiatric, surgical and dental  
treatment for incompetents and minors in State and county  
mental and correctional institutions and authorizing the chief  
executive officer thereof, under appropriate circumstances, to  
consent to such treatment and supplementing Title 30 of the  
Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. It is hereby declared to be the public policy of this State to  
2 make maximum provision for the health, safety and welfare of  
3 incompetent patients in State and county institutions for the men-  
4 tally ill and mentally retarded, and for inmates under age 21 in  
5 State and county penal and correctional institutions, by permitting  
6 the chief executive officer of such institution to consent to the  
7 utilization of appropriate medical, psychiatric, surgical and dental  
8 treatment for such patients and inmates where prescribed by a  
9 licensed physician or dentist as provided for herein.

1 2. The chief executive officer of a State or county institution for  
2 the mentally ill, mentally retarded or of a State or county penal or  
3 correctional institution is hereby authorized to give consent for  
4 medical, psychiatric, surgical or dental treatment to incompetent  
5 patients, or inmates under age 21, hospitalized or confined therein  
6 under circumstances where it appears that

7 (a) Such patients or inmates, because of incompetency or non-  
8 age, are legally prevented from giving consent to such treatment,  
9 and

10 (b) Either:

11 (i) There is no parent or guardian known to such officer,  
12 after reasonable inquiry, who is competent to give consent for  
13 the treatment of mental patients, or of inmates under the age  
14 of 21, or

15 (ii) Where a parent or guardian, after reasonable notice  
16 of the proposed treatment and a request for consent, and  
17 prior to the date fixed in such notice for the rendering of said  
18 treatment, refuses or neglects to execute and submit to such  
19 officer a writing expressing either the grant or denial of such  
20 consent, and

21 (c) Where a licensed physician, psychiatrist, surgeon or dentist  
22 certifies to the chief executive officer that the treatment to be per-  
23 formed is essential and beneficial to the general health and welfare  
24 of such patient or inmate, or will improve his opportunity for  
25 recovery or prolong or save his life.

1 3. In a case certified by a licensed physician, surgeon, psychi-  
2 atist or dentist to be one of grave emergency and to require im-  
3 mediate surgical intervention or other treatment in order to pre-  
4 vent the death of, or serious consequences to such patient or inmate,  
5 the chief executive officer is hereby authorized to consent to such  
6 medical, psychiatric, surgical or dental treatment to such patient  
7 or inmate as recommended and prescribed by such certification.

1 4. Notice of required treatment shall be given to a parent or  
2 guardian of such patient or inmate by certified mail to the last  
3 known address with a request for consent, and such notice shall  
4 contain sufficient information to indicate the precise nature of the  
5 illness and the proposed treatment and the date same will be per-  
6 formed, and shall be sent at least 10 days in advance of the date  
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9 or guardian shall be given the maximum advance notice possible  
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11 shall be deemed reasonable notice.

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2 officer, granting such consent in the exercise of his discretion upon  
3 the recommendation contained in the medical, psychiatric, surgical  
4 or dental certification, shall be exempt from personal liability in the  
5 performance of such public duty.

1 6. Nothing herein shall be so construed as to give authority  
2 to the chief executive officer of any institution to supervise, reg-  
3 ulate or control the remedial care or treatment of individual

4 patients who are adherents of any well recognized church or  
5 religious denomination which subscribes to the art of healing by  
6 prayer and the principles of which are opposed to medical treat-  
7 ment.

1 7. This act shall take effect immediately.

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#### STATEMENT

Under present procedures, before performing certain types of medical, psychiatric, surgical or dental treatment on patients in mental institutions and inmates in correctional institutions, consent is secured from the parent or guardian of such mental patients and of such inmates under the age of 21 years. Frequently such consents cannot be secured either because of the nonexistence of a parent or guardian or the refusal of such parent or guardian to consent. The result is the deterioration of the health and welfare of the patient or inmate. This bill, therefore, would permit such treatment to be performed upon proper certification of a physician, psychiatrist, surgeon or dentist.