

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 **this** the juvenile's counsel to determine if the
26 juvenile is knowingly, willingly, and voluntarily waiving **this** 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:

¹Assembly 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, or
31 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~~ed~~.

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~~ed~~.

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~~ed~~.

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~~ed~~.

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~~ed~~ ; 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, 【incompetency】 <u>incapacity</u> action	47.50
3	Plaintiff's costs, sale of lands of 【infant】 <u>minor</u>	
4	or 【incompetent】 <u>incapacitated individual</u>	50.00
5	Plaintiff's costs, release of dower or curtesy	50.00
6	Plaintiff's costs, mortgage lands of 【an infant】 <u>a minor</u> or	
7	【incompetent】 <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 【him】 <u>defendant</u>	30.00
28	Defendant's costs where final judgment is	
29	not taken by 【him】 <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)	

34
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 ¹**[**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.)¹

32
33 ¹**【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)]¹

4

5 ¹[115.] 113.¹ 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 ¹[116.] 114.¹ 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 ¹[117.] 115.¹ 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 ¹[118.] 116.¹ 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 ¹~~119.~~ 117.¹ 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 ¹[120.] 118. 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 ¹【121.】 119.¹ 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 ¹**【122.】** 120.¹ 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 ¹**【123.】 121.** 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 ¹**【124.】 122.** 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 ¹**【125.】 123.** 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 ¹**【126.】 124.**¹ 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 ¹**【127.】 125.**¹ 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 ¹**【128.】 126.**¹ 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 ¹**[129.] 127.** 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 ¹**[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 ¹**[131.] 129.**¹ 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 ¹**[132.] 130.**¹ 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 ¹**[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 ¹**[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 ¹**[135.] 133.**¹ 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 ¹**[136.] 134.**¹ 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 ¹**[137.] 135.**¹ This act shall take effect immediately.

38

39

40

41

42 Changes pejorative terminology referring to mental capacity of
43 individuals.