CHAPTER 103
(CORRECTED COPY)

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

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

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

C.2A:4A-39 Right to counsel.

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

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

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

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

(3) A juvenile who is found to lack mental capacity may not waive any right. A guardian ad litem shall be appointed for the juvenile who may waive rights after consultation with the juvenile and the juvenile's counsel.

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

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

Disabilities affecting limitation; action on behalf of minor.

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

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

Disabilities affecting right to enforce right or title to real estate.

2A:14-32. If any person having a right or title to real estate is under the age of 18, or has been adjudicated incapacitated, or is outside the United States for purposes other than a

military tour of duty at the time the right or title first accrued or descended, that person may, notwithstanding the fact that the periods of time specified in N.J.S.2A:14-30 and N.J.S.2A:14-31 have expired, bring an action to enforce the right or title, provided the action is commenced within five years after the disability is removed or the person is physically present within the United States.

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

Actions in person or by attorney.

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

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

Judgment for conveyance of land; effect.

2A:16-7. When a judgment of the Superior Court is entered for a conveyance, release, or acquittance of real estate or an interest therein, and the party against whom the judgment is entered has failed to comply by the time specified in the judgment, or within 15 days after entry of the judgment if no time is specified therein, the judgment shall have the same operation and effect in all courts as if the conveyance, release, or acquittance had been executed in conformance with the judgment, notwithstanding any disability of the party because of not having reached the age of majority pursuant to section 3 of P.L.1972, c.81 (C.9:17B-3), mental incapacity, or otherwise.

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

Declaration of rights or legal relations of interested parties in relation to estate, wills and other writings.

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

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

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

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

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

Limitation of action against municipality or county.

2A:48-2. No action under this article shall be instituted unless commenced within three months after the loss of or injury to the property. If any person entitled to such an action is, at the time the action accrues, under the age of 18 or a person who has a mental disability that prevents the person from understanding his legal rights or commencing a legal action,

the person may commence the action within three years after reaching majority or having the mental capacity to pursue the person's lawful rights.

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

Persons under disability; relief from judgment.

2A:62-8. If a defendant was, either at the time of the entry of a default against the defendant or at the time of the entry of the judgment, a minor or an incapacitated person, the defendant, or the defendant's heirs, may, unless the defendant was represented in the action by a guardian or a guardian ad litem, at any time within two years after the termination of the defendant's disability, appear in the action and apply for relief from the judgment.

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

Effect of opening or vacating judgment.

2A:62-10. If the title to the lands which is the subject of the judgment sought to be opened pursuant to N.J.S.2A:62-8 and N.J.S.2A:62-9, has, by the judgment or in consequence thereof, been conveyed to a purchaser for value or mortgaged to a mortgagee for value, the title shall not be affected by either the opening or vacation of the judgment. The vacation of the judgment shall operate only against the plaintiff named in the judgment, the plaintiff's heirs, executors, and administrators, to compel compensation to the minor, or incapacitated person to the extent of the value of the plaintiff's interest in the affected real property at the time the property was so conveyed or mortgaged.

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

Judgment; conclusiveness; opening judgment as to persons under disability.

2A:62-19. The final determination and judgment in an action authorized by N.J.S.2A:62-17 shall fix and settle the rights of all the parties in the estate in remainder in the lands or in the remainder interest in the personalty, and shall be binding and conclusive on all the parties to the action; but if any defendant to the suit is either at the time of the entry of a default or of judgment against the defendant, a minor or an incapacitated person, the defendant, the defendant's heirs or assigns may, unless the defendant was represented in the action by a guardian or a guardian ad litem, at any time within two years after the termination of the disability, appear in the action and apply for relief from the judgment.

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

Who may prosecute writ.

2A:67-13. Except as provided in N.J.S.2A:67-14, a person may prosecute a writ of habeas corpus, in accordance with this chapter, to inquire into the cause of the person's imprisonment or restraint, if the person is:

a. committed, detained, confined, or restrained of liberty, within this State, for a criminal or supposed criminal matter;

b. in custody by virtue of civil process issued out of a court in this State;

c. committed, detained, confined, or restrained of liberty, within this State, under any pretense;

d. in confinement on a charge of a criminal offense, which is of a bailable nature, for the purpose of posting bail; or

e. confined in a psychiatric facility, for the purpose of determining whether the person is in need of commitment to treatment.

f. (Deleted by amendment, P.L.2013, c.103)

g. (Deleted by amendment, P.L.2013, c.103)

h. (Deleted by amendment, P.L.2013, c.103)

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

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

Time of hearing; notice.

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

Notice of the time and place set for a later hearing shall be served at least two days before the hearing or earlier, as the court may order, by the applicant upon the defendant, and (a) if the party is in custody on any criminal matter, upon the county prosecutor of the county in which the alleged offense was committed, or (b) if the party is in custody on any civil process, upon each person having an interest in continuing the confinement or restraint or upon the party's attorney, or (c) if the party is in custody of any psychiatric facility or other institution, upon the person or persons whose application was the basis for commitment to the facility or institution, and upon the medical director or other head officer of the facility or institution.

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

Hearing; jury.

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

In all other cases, the judge may hear the matter summarily on the complaint, return and answer to the return, or require that testimony be offered orally and, on its own motion, may summon witnesses and require any person to produce documents, records, or other writings.

In a proceeding under subsection d. of N.J.S.2A:67-13, the judge may take testimony concerning the truth of affidavits and proofs upon which the order for process was made and process issued.

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

Judgment.

2A:67-29. In any proceeding under subsection a., b., or c. of N.J.S.2A:67-13, if no cause is shown for the imprisonment or restraint or for the continuation thereof, the judge shall discharge the party from the confinement or restraint. If the party is not entitled to a discharge and is not bailed, the party shall be remanded by the judge to the custody or placed

under the restraint from which the party was taken, so long as custody or restraint is lawful. If the custody or restraint is not lawful, the judge shall commit the party to the custody of the officer or person lawfully entitled thereto.

In any proceedings under subsection a., b., c., or d. of N.J.S.2A:67-13, if it appears that the person is entitled to be bailed, the judge shall discharge the person immediately, upon taking a secured or bonded recognizance in an amount as the judge may approve for the person's appearance, as the circumstances may require, and the judge shall then certify the writ with the return and the recognizance to the court where the appearance is to be made.

In any proceeding under subsection d. of N.J.S.2A:67-13, the judge shall discharge the party in custody if the process was improperly or improvidently issued.

In any proceeding under subsection e. of N.J.S.2A:67-13, the person shall not be discharged unless found not to be dangerous to self or dangerous to others or to property, either by the judge, if the hearing is held without a jury, or by unanimous verdict of the jury.

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

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

Transactions with mentally incapacitated person; decedent; proof required.

2A:81-2. In a civil action that is commenced or defended by a guardian on behalf of a person who is mentally incapacitated or by a personal representative on behalf of a decedent, any other party who asserts a claim or an affirmative defense against the person who is mentally incapacitated or against the personal representative, that is supported by oral testimony of a promise, statement, or act of the person who is mentally incapacitated before the onset of mental incapacity, or of the decedent, shall be required to establish the same by clear and convincing proof.

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

C.2A:84A-20 Lawyer-client privilege.

21. Rule 26.

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

(2) Exceptions. Such privilege shall not extend (a) to a communication in the course of legal service sought or obtained in aid of the commission of a crime or a fraud, or (b) to a communication relevant to an issue between parties all of whom claim through the client,

regardless of whether the respective claims are by testate or intestate succession or by inter vivos transaction, or (c) to a communication relevant to an issue of breach of duty by the lawyer to his client, or by the client to his lawyer. Where 2 or more persons have employed a lawyer to act for them in common, none of them can assert such privilege as against the others as to communications with respect to that matter.

(3) Definitions. As used in this rule (a) "client" means a person or corporation or other association that, directly or through an authorized representative, consults a lawyer or the lawyer's representative for the purpose of retaining the lawyer or securing legal service or advice from him in his professional capacity; and includes a person who is incapacitated whose guardian so consults the lawyer or the lawyer's representative on behalf of the person who is incapacitated, (b) "lawyer" means a person authorized, or reasonably believed by the client to be authorized to practice law in any State or nation the law of which recognizes a privilege against disclosure of confidential communications between client and lawyer. A communication made in the course of the relationship between lawyer and client shall be presumed to have been made in professional confidence unless knowingly made within the hearing of some person whose presence nullified the privilege.

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

C.2A:84A-22 Marital privilege – confidential communications.

22. Rule 28. Marital privilege--Confidential communications.

No person shall disclose any communication made in confidence between such person and his or her spouse unless both shall consent to the disclosure or unless the communication is relevant to an issue in an action between them or in a criminal action or proceeding in which either spouse consents to the disclosure, or in a criminal action or proceeding coming within section 17 of P.L.1960, c.52 (C.2A:84A-17). When a spouse is incapacitated or deceased, consent to the disclosure may be given for such spouse by the guardian, executor, or administrator. The requirement for consent shall not terminate with divorce or separation. A communication between spouses while living separate and apart under a divorce from bed and board shall not be a privileged communication.

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

C.2A:84A-22.1 Definitions.

1. As used in this act, (a) "patient" means a person who, for the sole purpose of securing preventive, palliative, or curative treatment, or a diagnosis preliminary to such treatment, of the patient's physical or mental condition, consults a physician, or submits to an examination by a physician; (b) "physician" means a person authorized or reasonably believed by the patient to be authorized, to practice medicine in the State or jurisdiction in which the consultation or examination takes place; (c) "holder of the privilege" means the patient while alive and not under the guardianship or the guardian of the person of a patient who is incapacitated, or the personal representative of a deceased patient; (d) "confidential communication between physician and patient" means such information transmitted between physician and patient, including information obtained by an examination of the patient, as is transmitted in confidence and by a means which, so far as the patient is aware, discloses the information to no third persons other than those reasonably necessary for the transmission of the information or the accomplishment of the purpose for which it is transmitted.

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

C.2A:84A-22.15 Victim counselor confidentiality privilege.

4. Subject to Rule 37 of the Rules of Evidence, a victim counselor has a privilege not to be examined as a witness in any civil or criminal proceeding with regard to any confidential communication. The privilege shall be claimed by the counselor unless otherwise instructed by prior written consent of the victim. When a victim is incapacitated or deceased consent to disclosure may be given by the guardian, executor, or administrator except when the guardian, executor, or administrator is the defendant or has a relationship with the victim such that the guardian, executor, or administrator has an interest in the outcome of the proceeding. The privilege may be knowingly waived by a juvenile. In any instance where the juvenile is, in the opinion of the judge, incapable of knowing consent, the parent or guardian of the juvenile may waive the privilege on behalf of the juvenile, provided that the parent or guardian is not the defendant and does not have a relationship with the defendant such that he has an interest in the outcome of the proceeding. A victim counselor or a victim cannot be compelled to provide testimony in any civil or criminal proceeding that would identify the name, address, location, or telephone number of a domestic violence shelter or any other facility that provided temporary emergency shelter to the victim of the offense or transaction that is the subject of the proceeding unless the facility is a party to the proceeding.

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

C.3A:25-42 Declaimer on behalf of decedent, minor or incapacitated person by personal representative or guardian.

4. A disclaimer on behalf of a decedent, minor, or incapacitated person may be made by the personal representative of the decedent or the guardian of the estate of the minor or incapacitated person. Such disclaimer shall not be effective unless, prior thereto, the personal representative or guardian has been authorized to disclaim by the court having jurisdiction of the estate of the decedent, minor, or incapacitated person, after finding that it is advisable and will not materially prejudice the rights of creditors, devisees, heirs, or beneficiaries of the decedent, the minor, or incapacitated person or his creditors, as the case may be.

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

Definitions I to Z.

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

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

The terms incapacity and incapacitated refer to the state or condition of an incapacitated individual as hereinbefore defined.

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

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

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

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

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

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

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

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

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

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

"Person" means an individual or an organization.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Trustee’s death or failure to act; appointment of new trustee by court; powers.

3B:11-5. When a trustee appointed by a will probated in the surrogate's court of any county or a trustee appointed under a trust inter vivos as to real or personal property situate in any county fails or refuses to act or dies before the execution or completion of the trust, or absconds or removes from this State, or is adjudicated an incapacitated individual or becomes in any manner legally incapable of executing the trust, the Superior Court may remove the trustee and appoint a suitable person or persons to execute the trust, and the trustee or trustees so appointed shall be entitled to the trust estate as fully and in the same

manner as the original trustee was and shall have all the power and discretion of the original trustee.

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

C.3B:11-21 Purposes, policies.

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

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

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

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

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

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

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

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

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

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

C.3B:11-22 Definitions.

4. As used in P.L.1985, c.424 (C.3B:11-19 et seq.):

a. "Beneficiary" means any person with a severe chronic disability who has qualified as a member of the community trust program and who has the right to receive those services and benefits of the community trust program as provided in P.L.1985, c.424.

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

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

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

(2) follow-along services;

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

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

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

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

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

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

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

Definitions.

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

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

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

(2) With the administration of the affairs of any of the aforesaid persons who may be minors or persons who are incapacitated or with the management of pensions, bounties, and allowances payable to them.

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

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

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

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

f. "Ward" means a beneficiary of a Federal agency.

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

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

Determination of incapacity by Superior Court.

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

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

Guardians; when and how appointed.

3B:13-7. When, pursuant to any law of the United States or regulation of a Federal agency, the chief officer of the agency requires, prior to payment of benefits, that a guardian be appointed for a ward, the appointment for a person who is incapacitated shall be made in the Superior Court, and the appointment for a minor shall be made in the Superior Court or in the surrogate's court.

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

Guardian to have no more than five wards; exceptions.

3B:13-8. Except as provided in this section, no person shall accept appointment as guardian of a ward if acting as guardian for five wards.

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

The limitation of this section shall not apply where the guardian is a bank or trust company or a public guardian of veterans who are incapacitated, and an individual may be guardian of more than five wards if they are all members of the same family.

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

Authorization for guardian of incapacitated ward to receive additional personal property not exceeding $10,000.

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

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

“Public guardian of veterans who are incapacitated.”

3B:13-21. There may be appointed in each county a person to be known as "public guardian of veterans who are incapacitated for the county of (naming county)", who shall be appointed by the Assignment Judge of the Superior Court in the county. The person appointed shall hold office for the term of five years from the date of appointment and until a successor is appointed and qualified.

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

Guardian’s bond.

3B:13-22. Before entering upon the duties of office, a public guardian of veterans who are incapacitated shall execute a bond to the Superior Court in an amount and with sureties as shall be approved by the Superior Court, conditioned for the faithful discharge of all duties imposed by law upon the person appointed public guardian.

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

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

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

Salary of public guardian.

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

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

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

Duties of public guardian as adviser of other guardians.

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

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

Discharge and removal of public guardian.

3B:13-25. The public guardian of veterans who are incapacitated shall be subject to discharge or removal, by the court, on the grounds and in the manner in which other guardians of persons who are incapacitated are discharged or removed.

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

Public guardian may be appointed general guardian for veteran.

3B:13-26. Where an action is brought in the Superior Court for the appointment of a guardian for a person who, while in the military, naval, marine, air, or coast guard service of the United States, or after discharge therefrom, is determined to be incapacitated, whether or not committed or confined to an institution for the care of persons who are incapacitated, and the heirs of the person are unwilling, unable, or unqualified for the appointment, or if the best interests of the person require it, the Superior Court may appoint the public guardian of the county in which the person resides as guardian of the person.

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

Powers of public guardian as guardian of veterans' estates.

3B:13-27. The public guardian of veterans who are incapacitated shall have, in respect of any veteran and the estate of any veteran for whom the public guardian is appointed, the same power and authority as any other duly appointed guardian of a person who is incapacitated.

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

Settlement of accounts.

3B:13-28. The public guardian shall settle accounts in each estate in which the guardian is appointed at the times and in the same manner as other guardians of persons who are incapacitated.

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

Termination of guardianship; settlement of account.

3B:13-29. Upon the termination of a guardianship, by death of the ward or otherwise, the public guardian shall settle the account in the same manner as other guardians of persons who are incapacitated.

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

Counsel to represent public guardian; compensation.

3B:13-31. The public guardian of veterans who are incapacitated may, when authorized by the Superior Court, employ counsel to represent the public guardian.

The compensation of counsel shall be fixed by the court and paid from moneys in the guardian's control belonging to the estate involved in litigation.

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

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

Definitions.

a. "Conservatee" means a person who has not been adjudicated incapacitated but who by reason of advanced age, illness, or physical infirmity, is unable to care for or manage property or has become unable to provide self-support or support for others who depend upon that support.

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

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

Limitations on appointment of conservator.

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

a. Be evidence of the capacity or incapacity of a conservatee; or

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

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

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

Termination of conservatorship.

3B:13A-34. A conservatorship shall terminate upon the death of the conservatee or upon adjudication of the conservatee to be incapacitated as provided by law, but the termination shall not affect the conservator's liability for prior acts nor obligation to account funds and property of the conservatee.

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

Conservator’s compensation.

3B:13A-36. A conservator shall be compensated for services in the same manner as a guardian for a minor or for a person who is incapacitated.

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

Removal for cause.

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

a. After due notice of an order or judgment of the court so directing, neglects or refuses, within the time fixed by the court, to file an inventory, render an account, or give security or additional security;

b. After due notice of any other order or judgment of the court made under its proper authority, neglects or refuses to perform or obey the order or judgment within the time fixed by the court;

c. Embezzles, wastes, or misapplies any part of the estate for which the fiduciary is responsible, or abuses the trust and confidence reposed in the fiduciary;

d. No longer resides nor has an office in the State and neglects or refuses to proceed with the administration of the estate and perform the duties required;

e. Is incapacitated for the transaction of business; or

f. Neglects or refuses, as one of two or more fiduciaries, to perform the required duties or to join with the other fiduciary or fiduciaries in the administration of the estate for which they are responsible whereby the proper administration and settlement of the estate is or may be hindered or prevented.

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

Powers.

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

a. To accept additions to any estate or trust from sources other than the estate of the decedent, the minor, the person who is incapacitated, or the settlor of a trust;

b. To acquire the remaining undivided interest in an estate or trust asset in which the fiduciary, in a fiduciary capacity, holds an undivided interest;

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

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

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

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

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

(3) With respect to fiduciaries other than a trustee, to lease the property for a term not exceeding three years, and in the case of a trustee to lease the property for a term not exceeding 10 years, even though the term extends beyond the duration of the trust, and in either case including the right to explore for and remove mineral or other natural resources, and in connection with mineral leases to enter into pooling and unitization agreements;

(4) To mortgage the property;

(5) To grant easements to adjoining owners and utilities;

(6) A fiduciary acting under a will may exercise any of the powers granted by this subsection e. notwithstanding the effects upon the will of the birth of a child after its execution;

f. To make repairs to the property of the estate or trust for the purpose of preserving the property or rendering it rentable or saleable;

g. To grant options for the sale of any property of the estate or trust for a period not exceeding six months;

h. With respect to any mortgage held by the estate or trust to continue it upon and after maturity, with or without renewal or extension, upon terms as may seem advisable to the fiduciary and to foreclose, as an incident to collection of any bond or note, any mortgage and purchase the mortgaged property or acquire the property by deed from the mortgagor in lieu of foreclosure;

i. In the case of the survivor or survivors of two or more fiduciaries to administer the estate or trust without the appointment of a successor to the fiduciary or fiduciaries who have ceased to act and to exercise or perform all of the powers given unless contrary to the express provision of the will, deed, or other instrument;

j. As a new, alternate, successor, substitute, or additional fiduciary or fiduciaries, to have or succeed to all of the powers, duties, and discretion of the original fiduciary or fiduciaries, with respect to the estate or trust, as were given to the original fiduciary or fiduciaries named in or appointed by a will, deed, or other instrument, unless the exercise of the powers, duties, or discretion of the original fiduciary or fiduciaries is expressly prohibited by the will, deed, or other instrument to any successor or substitute fiduciary or fiduciaries;

k. Where there are three or more fiduciaries qualified to act, to take any action with respect to the estate or trust which a majority of the fiduciaries shall determine; a fiduciary who fails to act through absence or disability, or a dissenting fiduciary who joins in carrying out the decision of a majority of the fiduciaries if the dissent is expressed promptly in writing

to the cofiduciaries, shall not be liable for the consequences of any majority decision, provided that liability for failure to join in administering the trust or to prevent a breach of trust may not thus be avoided;

l. To employ and compensate attorneys for services rendered to the estate or trust or to a fiduciary in the performance of the fiduciary's duties;

m. To compromise, contest, or otherwise settle any claim in favor of the estate, trust, or fiduciary or in favor of third persons and against the estate, trust, or fiduciary, including transfer inheritance, estate, income, and other taxes;

n. To vote in person or by proxy, discretionary or otherwise, shares of stock or other securities held by the estate or trust;

o. To pay calls, assessments, and any other sums chargeable or accruing against or on account of shares of stock, bonds, debentures, or other corporate securities in the control of a fiduciary, whenever the payments may be legally enforceable against the fiduciary or any property of the estate or trust or the fiduciary deems payment expedient and for the best interests of the estate or trust;

p. To sell or exercise stock subscription or conversion rights, participate in foreclosures, reorganizations, consolidations, mergers, or liquidations, and to consent to corporate sales or leases and encumbrances, and, in the exercise of those powers, the fiduciary is authorized to deposit stocks, bonds, or other securities with any custodian, agent, protective or other similar committee, or trustee under a voting trust agreement, under terms and conditions respecting the deposit thereof as the fiduciary may approve;

q. To execute and deliver agreements, assignments, bills of sale, contracts, deeds, notes, receipts, and any other instrument necessary or appropriate for the administration of the estate or trust;

r. In the case of a trustee:

(1) To hold two or more trusts or parts of trusts created by the same instrument, as an undivided whole, without separation as between the trusts or parts of the trusts, provided that separate trusts or parts of trusts shall have undivided interests and provided further that no holding shall defer the vesting of any estate in possession or otherwise;

(2) To divide a trust, before or after its initial funding, into two or more separate trusts, provided that such division will not materially impair the accomplishment of the trust purposes or the interests of any beneficiary. Distributions provided for by the governing instrument may be made from one or more of the separate trusts;

s. To distribute in kind any property of the estate or trust as provided in article 1 of chapter 23 of this Title;

t. To join with the surviving spouse, partner in a civil union, or domestic partner, the executor of the decedent's will, or the administrator of the decedent's estate in the execution and filing of a joint income tax return for any period prior to the death of a decedent for which no return or gift tax return on gifts made by the decedent's surviving spouse, partner in a civil union, or domestic partner was filed, and to consent to treat the gifts as being made one-half by the decedent, for any period prior to a decedent's death, and to pay taxes thereon as are chargeable to the decedent;

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

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

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

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

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

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

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

For purposes of this subsection, "fiduciary account" shall include a trust, estate, agency, or other account in which funds, property, or both, are held by a qualified bank pursuant to section 28 of P.L.1948, c.67 (C.17:9A-28), or an account for which a qualified bank or out-of-State bank acts as investment advisor or manager or an account held by an out-of-State bank as defined in section 1 of P.L.1948, c. 67 (C.17:9A-1);

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

the "Accountancy Act of 1997," P.L.1997, c.259 (C.45:2B-42 et seq.) and "The Professional Service Corporation Act," P.L.1969, c.232 (C.14A:17-1 et seq.); and

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

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

Bonds of fiduciaries; exceptions.

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

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

b. When a person is appointed in the place of the person named as fiduciary in the will, or other instrument creating or continuing the fiduciary relationship;

c. When the office to which the person is appointed is any form of administration, except: (1) administration ad litem which may be granted with or without bond; or (2) administration granted to a surviving spouse where the decedent's entire estate is payable to the surviving spouse;

d. When the office to which the person is appointed is any form of guardianship of a minor or a person who is incapacitated, except as otherwise provided in N.J.S.3B:12-16 or N.J.S.3B:12-33 with respect to a guardian appointed by will;

e. When letters are granted to a nonresident executor, except in cases where the will provides that no security shall be required of the person named as executor therein;

f. When an additional or substituted fiduciary is appointed;

g. When an appointment is made under chapter 26 of this title, of a fiduciary for the estate or property, or any part thereof, of an absentee;

h. When a fiduciary moves from the State, in which case the court may require the fiduciary to give such security as the court determines; or

i. (1) When an appointment is made, regardless of any direction in a last will and testament relieving a personal representative, testamentary guardian, or testamentary trustee or their successors from giving bond, that person shall, before receiving letters or exercising any authority or control over the property, provide bond to secure performance of the person's duties with respect to property to which a person with a developmental disability as defined in section 3 of P.L.1985, c.145 (C.30:6D-25) is, or shall be entitled, if:

(a) the testator has identified that a devisee or beneficiary of property of the decedent's estate is a person with a developmental disability; or

(b) the person seeking appointment has actual knowledge that a devisee or beneficiary of property of the decedent's estate is a person with a developmental disability.

(2) No bond shall be required pursuant to paragraph (1) of this subsection if:

(a) the court has appointed another person as guardian of the person or guardian of the estate for the person with a developmental disability;

(b) the person seeking the appointment is a family member within the third degree of consanguinity of the person with a developmental disability; or

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

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

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

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

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

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

Bond required of guardian of minor of person who is incapacitated.

3B:15-7. The bond required of a guardian of a minor or a person who is incapacitated shall be conditioned substantially as follows:

a. To administer the ward's estate to the best of the guardian's ability, and to take proper care of the ward if the guardian is the guardian of the ward's person;

b. To make a just and true account of the administration of the guardianship, and, if required by the court, to settle the accounts therein within the time so required.

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

C.3B:15-17.1 Payment at age 18.

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

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

Guardian to file inventory of estate of minor or person who is incapacitated.

3B:16-8. Every guardian of the estate of a minor or a person who is incapacitated may, and if required by the court shall, file with the surrogate of the proper county or the clerk of the Superior Court an inventory, under oath, of all the real and personal property which is in the control, possession, or knowledge of the guardian or any other person on the guardian's behalf. The court shall not require an inventory and appraisal to be filed until three months have elapsed after the grant of letters.

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

Filing of release or cestui que trust.

3B:17-1. A fiduciary need not render or settle an account if the fiduciary files with the court a release or discharge from the beneficiary, ward, or cestui que trust who has reached majority and is not incapacitated.

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

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

Unclaimed estate assets.

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

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

Conditions precedent to suit for devise.

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

a. The devise becomes due and payable;

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

c. A refunding bond in substantially the form prescribed in N.J.S.3B:23-26 is tendered to the personal representative by the devisee, or, if the devisee is a minor or a person who is incapacitated, by the guardian of the devisee's estate, and, if not accepted by the personal representative, the refunding bond is filed with the clerk of the court, prior to the commencement of the action.

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

Deposit with court; effect.

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

a. To minors, persons who are incapacitated, or persons not in esse; or

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

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

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

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

C.9:2-13 Definitions.

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

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

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

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

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

(e) The phrase "mentally incapacitated" means inability to understand and discharge the natural and regular obligations of care and support of a child by reason of mental disease, intellectual disability, or the effects of drug, alcohol, or substance abuse.

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

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

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

C.9:2-19 Grounds for terminating custody.

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

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

C.9:17B-3 Majority at 18.

3. Except with respect to the provision of services pursuant to the laws relating to dependent and neglected children, allocated to chapter 4C of Title 30 of the Revised Statutes (C.30:4C-1 to 30:4C-44), to persons between 18 and 21 years of age who seek to avail themselves of such services and who are enrolled in a school or training program below college level or who require a course of treatment for emotionally, cognitively, or physically disabled persons, with respect to the right of a court to take any action it deems appropriate and in the interest of a person under 21 years of age, or to require a change in action heretofore taken by a court with respect to a person under 21 years of age, or with respect to the provisions of the "New Jersey Uniform Gifts to Minors Act" (P.L.1963, c.177, C.46:38-13 et seq.), or the "New Jersey Uniform Transfers to Minors Act," R.S. 46:38A-1 et seq., every person 18 or more years of age shall in all other matters and for all other purposes be deemed to be an adult and, notwithstanding any other provision of law to the contrary, shall

have the same legal capacity to act and the same powers and obligations as a person 21 or more years of age. Except as herein otherwise provided, every act or action of any such person shall be as valid, binding, and enforceable by or against such person as if, at the time such act or action was performed or undertaken, such person was 21 or more years of age and no act or action by any such person performed or undertaken on or after the effective date of this act shall be subject to disaffirmance because of minority.

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

C.10:4-12 Meetings open to public; exceptions.

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

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

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

(2) matter in which the release of information would impair a right to receive funds from the Government of the United States;

(3) material the disclosure of which constitutes an unwarranted invasion of individual privacy such as any records, data, reports, recommendations, or other personal material of any educational, training, social service, medical, health, custodial, child protection, rehabilitation, legal defense, welfare, housing, relocation, insurance, and similar program or institution operated by a public body pertaining to any specific individual admitted to or served by an institution or program, including but not limited to, information relative to the individual's personal and family circumstances, and any material pertaining to admission, discharge, treatment, progress, or condition of any individual, unless the individual concerned (or, in the case of a minor or an incapacitated individual, the individual’s guardian) shall request in writing that the material be disclosed publicly;

(4) collective bargaining agreement, or the terms and conditions which are proposed for inclusion in any collective bargaining agreement, including the negotiation of the terms and conditions thereof with employees or representatives of employees of the public body;

(5) matter involving the purchase, lease, or acquisition of real property with public funds, the setting of banking rates, or investment of public funds, if it could adversely affect the public interest if discussion of the matters were disclosed;

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

(7) pending or anticipated litigation or contract negotiation other than in subsection b. (4) herein in which the public body is, or may become, a party, or matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer;

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

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

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

Proof of signatures and status as holder in due course.

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

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

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

C.13:1C-16 Grounds for refusal of application, issuance or revocation of certificate.

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

(a) has been convicted of an offense involving moral turpitude, is a drug addict or alcoholic, or is incapacitated; or

(b) advocates the overthrow of the Government of the United States by force and violence or other unlawful means; or

(c) has made any willful statement or impersonated any other person or permitted or aided any other person to impersonate the applicant or certificate holder in connection with any application or examination for certification and registration; or

(d) has been found to be inefficient in performing the duties of any position held by the person, on the basis of the holding of which experience qualifications are offered on that person's behalf.

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

C.17:4-9.1 "Successor company" includes "successor bank, savings bank"; "predecessor company" includes "liquidating company" or "predecessor savings bank."

1. For purposes of this section, the term "successor company" includes "successor bank" or "successor savings bank"; and the term "predecessor company" includes "liquidating company" or "predecessor savings bank."

A successor company formed under R.S.17:4-9, repealed and replaced by section 16 of P.L.1948, c.67 (C.17:9A-16), and qualified to act as a fiduciary as provided for by R.S.17:4-41, repealed and replaced by section 30 of P.L.1948, c.67 (C.17:9A-30), in order to facilitate the orderly liquidation of the predecessor company, the successor company shall be permitted to be substituted as fiduciary in those matters in which the predecessor company has qualified.

If in the sound judgment of the predecessor company and the successor company such a substitution of fiduciary is deemed in the best interests of the trust or relation and in aid of the liquidation, the predecessor company may file its account to date with the court having jurisdiction, and upon approval thereof and discharge from the trust or relation the successor company shall succeed to the rights, relations, and trusts and associated duties, and shall execute and perform the trust or relation as if the successor company had originally assumed the trust or relation; provided, however, that the successor company shall not assume the liabilities incurred by the predecessor company incident to its administration of the trust or relation.

Subject to this section, the successor company shall succeed to the rights and duties of the predecessor company and to all fiduciary capacities in respect to any estate or trust or other matter being administered under the laws of New Jersey, or as transfer agent or registrar of stocks and bonds.

Subject to this section, all fiduciary rights, privileges, and duties shall remain unimpaired and shall continue in the successor company from the date of discharge by the court of the predecessor company from the trust or relation, regardless of: (i) the date the relationship was established; (ii) the trust agreement was created; or (iii) the trustor, the decedent, the person who is mentally incapacitated, or the minor died, without the need for the successor company to seek appointment in the person's estates; provided that where the instrument under which the predecessor company qualified to act did not require the furnishing of a bond, no bond shall be required.

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

C.18A:66-184 Disability benefits; payment; total disability; exceptions.

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

The participant will be considered totally disabled if unable to perform each duty of the participant's occupation and is under the regular care of a physician. After the 12 months following the commencement of the disability benefit payments, the participant must be unable to engage in any gainful occupation for which the participant is reasonably fitted by education, training, or experience. Total disability is not considered to exist if the participant is gainfully employed. However, following an agreement with the insurance company and the policyholder, the participant can continue to receive disability benefits for a limited time while performing some type of work. During the period of rehabilitation the monthly benefit will be the regular payment less 80% of the participant's earnings from the rehabilitative position.

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

Disability benefit insurance provisions of the group policy or policies shall not cover disability resulting from or contributed to by pregnancy, act of war, intentionally self-inflicted injury, or attempted suicide regardless of mental capacity. For purposes of disability insurance the participant will not be considered to be disabled while imprisoned or outside the United States, its territories or possessions, or Canada.

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

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

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

Chancery division of superior court; costs awarded.

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

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

Plaintiff's costs, foreclosure	$ 50.00
Plaintiff's costs, partition	70.00
Plaintiff's and receiver's costs, receivership	125.00
Plaintiff's costs, receivership	62.50
Receiver's costs, receivership	62.50
Plaintiff's costs, divorce, dissolution of civil union, nullity, custody	30.00
Plaintiff's costs, causes of action for other relief	65.00
Plaintiff's costs, incapacity action	47.50
Plaintiff's costs, sale of lands of minor	

or incapacitated individual	50.00
Plaintiff's costs, release of dower or curtesy	50.00
Plaintiff's costs, mortgage lands of a minor or incapacitated individual	50.00
Plaintiff's costs, interpleader	35.00
Plaintiff's costs, appointment of tax receiver	27.50
Plaintiff's costs, actions for payment of money into court; to hold real estate; to limit creditors	22.50
Plaintiff's costs, action for appointment of trustee or substituted trustee	33.50
Costs on contempt proceedings	25.00
Costs on application to fix dower or curtesy	22.50
Costs on application to pay moneys out of court	23.50
Costs on application for instructions, or to approve account	30.00
Costs on application for writ of execution	10.00
Costs on application for relief from final judgment or, in a matrimonial cause from judgment nisi or order	20.00
Costs on application for writ of possession	30.00
Costs on application for alimony pendente lite, attorney fee, suit money	20.00
Defendant's costs where final judgment is taken by defendant	30.00
Defendant's costs where final judgment is not taken by defendant	20.00
Costs upon any other litigated or special motion, subsidiary or interlocutory, not heretofore provided for	50.00

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

C.26:2H-54 Findings, declarations.

2. The Legislature finds and declares that:

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

b. Modern advances in science and medicine have made possible the prolongation of the lives of many seriously ill individuals, without always offering realistic prospects for improvement or cure. For some individuals, the possibility of extended life is experienced as meaningful and of benefit. For others, artificial prolongation of life may seem to provide nothing medically necessary or beneficial, serving only to extend suffering and prolong the dying process. This State recognizes the inherent dignity and value of human life and within this context recognizes the fundamental right of individuals to make health care decisions to have life-prolonging medical or surgical means or procedures provided, withheld, or withdrawn.

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

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

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

f. In order to assure respect for patients' previously expressed wishes when the capacity to participate actively in decision making has been lost or impaired; to facilitate and encourage a sound decision making process in which patients, health care representatives, families, physicians, and other health care professionals are active participants; to properly consider patients' interests both in self-determination and in well-being; and to provide necessary and appropriate safeguards concerning the termination of life-sustaining treatment for patients who lack mental capacity as the law and public policy of this State, the Legislature hereby enacts the New Jersey Advance Directives for Health Care Act.

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

C.26:2H-55 Definitions.

3. As used in P.L.1991, c.201 (C.26:2H-53 et seq.):

"Adult" means an individual who has reached majority pursuant to section 3 of P.L.1972, c.81 (C.9:17B-3).

"Advance directive for health care" or "advance directive" means a writing executed in accordance with the requirements of P.L.1991, c.201. An "advance directive" may include a proxy directive or an instruction directive, or both.

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

"Decision making capacity" means a patient's ability to understand and appreciate the nature and consequences of health care decisions, including the benefits and risks of each, and alternatives to any proposed health care, and to reach an informed decision. A patient's

decision making capacity is evaluated relative to the demands of a particular health care decision.

"Declarant" means an adult who has the mental capacity to execute an advance directive and does so.

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

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

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

"Health care institution" means all institutions, facilities, and agencies licensed, certified, or otherwise authorized by State law to administer health care in the ordinary course of business, including hospitals, nursing homes, residential health care facilities, home health care agencies, hospice programs operating in this State, mental health institutions, facilities or agencies, or institutions, facilities, and agencies for the developmentally disabled. The term "health care institution" shall not be construed to include "health care professionals" as defined in P.L.1991, c.201.

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

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

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

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

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

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

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

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

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

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

"Terminal condition" means the terminal stage of an irreversibly fatal illness, disease, or condition. A determination of a specific life expectancy is not required as a precondition for a diagnosis of a "terminal condition," but a prognosis of a life expectancy of six months or less, with or without the provision of life-sustaining treatment, based upon reasonable medical certainty, shall be deemed to constitute a terminal condition.

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

C.26:2H-57 Proxy, instruction directive; reaffirmed, modified, revoked.

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

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

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

(2) Execution of a subsequent proxy directive or instruction directive, or both, in accordance with section 4 of P.L.1991, c.201 (C.26:2H-56).

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

d. A patient who lacks mental capacity may suspend an advance directive, including a proxy directive, an instruction directive, or both, by any of the means stated in paragraph (1) of subsection b. of this section. A patient who lacks mental capacity and has suspended an advance directive may reinstate that advance directive by oral or written notification to the health care representative, physician, nurse, or other health care professional of an intent to reinstate the advance directive.

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

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

C.26:2H-58 Designation of health care representative; limitations.

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

(1) An adult who has mental capacity, including, but not limited to, a declarant's spouse, partner in a civil union as defined in section 2 of P.L.2006, c.103 (C.37:1-29), domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), adult child, parent, or other

family member, friend, religious or spiritual advisor, or other person of the declarant's choosing, may be designated as a health care representative.

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

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

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

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

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

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

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

C.26:2H-60 Determination of patient’s capacity to make a health care decision.

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

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

c. If the attending physician or the confirming physician determines that a patient lacks decision making capacity because of a mental or psychological impairment or a developmental disability, and neither the attending physician or the confirming physician has specialized training or experience in diagnosing mental or psychological conditions or developmental disabilities of the same or similar nature, a determination of a lack of decision making capacity shall be confirmed by one or more physicians with appropriate specialized training or experience. The opinion of the confirming physician shall be stated in writing

and made a part of the patient's medical records in the same manner as that of the attending physician.

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

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

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

f. A determination of lack of decision making capacity under this act is solely for the purpose of implementing an advance directive in accordance with the provisions of this act, and shall not be construed as a determination of a patient's incapacity for any other purpose.

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

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

C.26:2H-103 Findings, declarations relative to advance directives for mental health care.

2. The Legislature finds and declares that:

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

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

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

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

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

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

C.26:2H-104 Definitions relative to advance directives for mental health care.

3. As used in this act:

"Adult" means an individual who has reached majority pursuant to section 3 of P.L.1972, c.81 (C.9:17B-3).

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

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

"Declarant" means an adult who has the mental capacity to execute an advance directive for mental health care and does so.

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

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

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

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

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

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

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

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

funded by the Department of Human Services to provide community-based mental health services.

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

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

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

C.26:2H-106 Validity of advance directive for mental health care, reaffirmation, modification, revocation.

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

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

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

c. A declarant may reaffirm or modify an advance directive for mental health care, including a proxy directive or an instruction directive, or both, subject to the provisions of subsection b. of this section. The reaffirmation or modification shall be made in accordance with the requirements for execution of an advance directive for mental health care pursuant to section 4 of P.L.2005, c.233 (C.26:2H-105).

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

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

(2) execution of a subsequent proxy directive or instruction directive, or both, in accordance with section 4 of P.L.2005, c.233 (C.26:2H-105).

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

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

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

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

C.26:2H-107 Execution of proxy directive.

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

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

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

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

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

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

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

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

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

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

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

(a) the identification of mental health care professionals and programs and psychiatric facilities that the declarant would prefer to provide mental health services;

(b) consent to admission to a psychiatric facility for up to a specified number of days;

(c) a refusal to accept specific types of mental health treatment, including medications;

(d) a statement of medications preferred by the declarant for mental health treatment;

(e) a statement of the preferred means of crisis intervention or other preferences for mental health treatment; and

(f) additional instructions or information concerning mental health care.

(3) An instruction directive may, but need not, be executed contemporaneously with, or be attached to, a proxy directive.

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

C.26:2H-109 Determination of patient’s decision-making capacity.

8. a. The responsible mental health care professional shall determine whether the patient lacks the capacity to make a particular mental health care decision. The determination shall: be stated in writing; include the responsible mental health care professional's opinion concerning the nature, cause, extent, and probable duration of the patient's incapacity; and be made a part of the patient's medical records.

b. The responsible mental health care professional's determination of a lack of decision-making capacity shall be confirmed by one or more mental health care professionals. The opinion of the confirming mental health care professional shall be stated in writing and made a part of the patient's medical records in the same manner as that of the responsible mental health care professional.

c. A mental health care professional designated by the patient's advance directive as a mental health care representative shall not make the determination of a lack of decision-making capacity.

d. The responsible mental health care professional shall inform the patient, if the patient has any ability to comprehend that he has been determined to lack decision-making capacity, and the mental health care representative that:

(1) the patient has been determined to lack decision-making capacity to make a particular mental health care decision;

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

(3) each may have recourse to the dispute resolution process established by the psychiatric facility pursuant to section 14 of P.L.2005, c.223 (C.26:2H-115). Notice to the patient and the mental health care representative shall be documented in the patient's medical records.

e. A determination of lack of decision-making capacity under this act shall be solely for the purpose of implementing an advance directive for mental health care in accordance with

the provisions of this act, and shall not be construed as a determination of a patient's incapacity for any other purpose.

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

g. For the purposes of this section, "mental health care decision" includes a decision to modify, revoke, or suspend an advance directive for mental health care as provided in subsection f. of section 5 of P.L.2005, c.233 (C.26:2H-106).

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

C.26:5C-8 Disclosure of AIDS, HIV records, information.

4. a. The content of a record referred to in section 3 of P.L.1989, c.303 (C.26:5C-7) may be disclosed in accordance with the prior written informed consent of the person who is the subject of the record or if the person is adjudicated incapacitated or deceased, in accordance with section 8 of P.L.1989, c.303 (C.26:5C-12).

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

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

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

(3) To qualified personnel involved in medical education or in the diagnosis and treatment of the person who is the subject of the record. Disclosure is limited to only personnel directly involved in medical education or in the diagnosis and treatment of the person.

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

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

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

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

C.26:5C-12 Consent to disclose record of deceased, legally incapacitated person.

8. When consent is required for disclosure of the record of a deceased or legally incapacitated person who has or is suspected of having AIDS or HIV infection, consent may be obtained:

a. From an executor, administrator of the estate, or authorized representative of the legally incapacitated or deceased person;

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

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

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

Jurisdiction of Superior Court over persons who are mentally ill or incapacitated not affected.

30:1-18. No provision of this Title shall restrain or abridge the power and authority of the Superior Court over the persons and property of persons who are mentally ill or incapacitated.

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

Boards of trustees; appointment; terms; vacancies; removal; compensation; organization.

30:4-1. The State board, with the approval of the Governor, shall appoint a board of trustees for each State institution or agency or for each group or class thereof as it may determine, from residents of the State without respect to political affiliation or belief.

The State board, with the approval of the Governor, may appoint a board of trustees or authorize or designate an existing board of trustees whenever the establishment or assumption of jurisdiction over an additional institution, or the acquisition of an institutional site, is authorized by the Legislature.

Each board of trustees of an institution shall be known as "the board of trustees" naming the institution or group or class for which the board is appointed. The State board, with the approval of the Governor, shall name the boards of noninstitutional agencies.

Except as otherwise specifically provided by statute, the boards of trustees shall consist of not less than five nor more than seven members. At least two women shall be members of each board in charge of the institutions or agencies for persons who are blind, or who have a mental illness or developmental disability, and at least two members of the Commission for the Blind and Visually Impaired shall themselves be legally blind but not employees, or related to an employee by blood, marriage, or adoption.

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

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

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

Annually, on or before July 1 each board of trustees shall elect from its members a chair and vice chair and shall appoint a secretary, with the approval of the chief executive officer of the institution, who shall be an employee of the institution or agency and serve at the pleasure of the board without additional compensation. The term of office of the chair and vice chair shall be until June 30 of the following year or until their successors are elected and qualified.

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

C.30:4-7.1 Provision for health, safety, and welfare of patients who are incapacitated, residents.

1. It is hereby declared to be the public policy of this State to make maximum provision for the health, safety, and welfare of patients who are incapacitated and residents in State and county institutions for persons with mental illness and persons with developmental disabilities, for persons with developmental disabilities who are residents in community-based alternate living arrangements in the State or in private facilities both in and outside the State, and for inmates under age 18 in State and county penal and correctional institutions, by permitting the chief executive officer of the institution or the regional administrator of a Division of Developmental Disabilities community services region to consent to the utilization of appropriate medical, psychiatric, surgical, and dental treatment for the patients, inmates, and residents where prescribed by a licensed physician or dentist as provided for herein.

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

C.30:4-7.2 Consent for treatment for certain patients, inmates, residents or juveniles.

2. The chief executive officer of a State or county psychiatric hospital or developmental center, a State or county penal or correctional institution, or a juvenile facility or detention center, or the regional administrator of a Division of Developmental Disabilities community services region is hereby authorized to give consent for medical, psychiatric, surgical, or dental treatment to patients who lack mental capacity, inmates, or juveniles under age 18, or residents, hospitalized, confined, or placed by the Division of Developmental Disabilities in community-based alternate living arrangements in the State or in private facilities both in and outside the State, under circumstances where it appears that:

a. The patients, inmates, juveniles, or residents, because of mental incapacity or nonage, are legally prevented from giving consent to the treatment; and

b. Either:

(1) there is no parent or guardian known to the officer or administrator, after reasonable inquiry, who has the mental capacity to give consent for the treatment of patients, inmates under the age of 18, or residents; or

(2) where a parent or guardian, after reasonable notice of the proposed treatment and a request for consent, and prior to the date fixed in the notice for the rendering of the treatment, refuses or neglects to execute and submit to the officer or administrator a writing expressing either the grant or denial of the consent; and

c. Where a licensed physician, psychiatrist, surgeon, or dentist certifies that the treatment to be performed is essential and beneficial to the general health and welfare of the patient, inmate, or resident, or will improve the opportunity for recovery or prolong or save the person's life.

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

C.30:4-24.2 Rights of patients.

10. a. Subject to any other provisions of law and the Constitutions of New Jersey and the United States, no patient shall be deprived of any civil right solely because of receipt of treatment under the provisions of this Title nor shall the treatment modify or vary any legal or civil right of any patient, including, but not limited to, the right to register for and to vote at elections, or rights relating to the granting, forfeiture, or denial of a license, permit, privilege, or benefit pursuant to any law.

b. Every patient in treatment shall be entitled to all rights set forth in P.L.1965, c.59 and shall retain all rights not specifically denied him under this Title. A notice of the rights set forth in P.L.1965, c.59 shall be given to every patient within five days of admission to treatment. The notice shall be written in simple understandable language. It shall be in a language the patient understands and if the patient cannot read the notice, it shall be read to the patient. If a patient is adjudicated incapacitated, the notice shall be given to the patient's guardian. Receipt of this notice shall be acknowledged in writing, with a copy placed in the patient's file. If the patient or guardian refuses to acknowledge receipt of the notice, the person delivering the notice shall state this in writing, with a copy placed in the patient's file.

c. No patient may be presumed to be incapacitated because of an examination or treatment for mental illness, regardless of whether the evaluation or treatment was voluntarily or involuntarily received. A patient who leaves a mental health program following evaluation or treatment for mental illness, regardless of whether that evaluation or treatment was voluntarily or involuntarily received, shall be given a written statement of the substance of P.L.1965, c.59.

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

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

(2) Not to be subjected to experimental research, shock treatment, psychosurgery, or sterilization, without the express and informed consent of the patient after consultation with counsel or interested party of the patient's choice. The consent shall be in writing, a copy of which shall be placed in the patient's treatment record. If the patient has been adjudicated incapacitated, a court of competent jurisdiction shall determine the necessity of the procedure at a hearing where the client is physically present, represented by counsel, and provided the right and opportunity to be confronted with and to cross-examine witnesses alleging the necessity of the procedures. In these proceedings, the burden of proof shall be on the party alleging the necessity of the procedures. If a patient cannot afford counsel, the court shall appoint an attorney not less than 10 days before the hearing. An attorney so appointed shall be entitled to a reasonable fee to be determined by the court and paid by the county from which the patient was admitted. Under no circumstances may a patient in treatment be

subjected to experimental research not directly related to the specific goals of the patient's treatment program.

(3) To be free from physical restraint and isolation. Except for emergency situations, in which a patient has caused substantial property damage or attempted to harm himself or others and in which less restrictive means of restraint are not feasible, a patient may be physically restrained or placed in isolation, only on a medical director's written order or that of the director's physician designee which explains the rationale for the action. The written order may be entered only after the medical director or physician designee has personally seen the patient, and evaluated the episode or situation causing the need for restraint or isolation. Emergency use of restraints or isolation shall be for no more than one hour, by which time the medical director or physician designee shall have been consulted and shall have entered an appropriate written order. The written order shall be effective for no more than 24 hours and shall be renewed if restraint and isolation are continued. While in restraint or isolation, the patient must be bathed every 12 hours and checked by an attendant every two hours, which actions shall be noted in the patient's treatment record along with the order for restraint or isolation.

(4) To be free from corporal punishment.

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

(1) To privacy and dignity.

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

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

(4) To have access to individual storage space for private use.

(5) To see visitors each day.

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

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

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

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

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

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

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

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

g. (1) A patient's rights designated under subsection e. of this section may be denied for good cause when the director of the patient's treatment program feels it is imperative to do so; provided, however, under no circumstances shall a patient's right to communicate with the patient's attorney, physician, or the courts be restricted. Any denial of a patient's rights

shall take effect only after a written notice of the denial has been filed in the patient's treatment record, including an explanation of the reason for the denial.

(2) A denial of rights shall be effective for a period not to exceed 30 days and shall be renewed for additional 30-day periods only by a written statement entered by the director of the program in the patient's treatment record indicating the detailed reason for renewal of the denial.

(3) In each instance of a denial or a renewal, the patient, the patient's attorney, the patient's guardian, if the patient has been adjudicated incapacitated, and the department shall be given written notice of the denial or renewal and the reason.

h. A patient subject to this Title shall be entitled to a writ of habeas corpus upon proper petition by the patient, a relative, or a friend to any court of competent jurisdiction in the county in which the patient is detained and shall further be entitled to enforce any of the rights herein stated by civil action or other remedies otherwise available by common law or statute.

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

C.30:4-25.2 Application for determination of eligibility.

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

1. the person's parent or guardian;

2. a child-caring agency, hospital, clinic, or other appropriate agency, public or private, or by a physician having care of the minor, provided the written consent of the parent or guardian or the Division of Youth and Family Services, under its care and custody program, has been obtained; or

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

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

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

b. the guardian of the person of an adjudicated incapacitated adult; or

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

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

C.30:4-27.11a Findings, declarations.

1. The Legislature finds and declares that:

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

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

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

d. All patients who are receiving assessment or treatment on an involuntary basis in screening services and short-term care facilities, as defined in section 2 of P.L.1987, c.116 (C.30:4-27.2), are entitled to receive professional treatment of the highest standard and, unless the patient is mentally incapacitated, to participate in their treatment and discharge planning to the fullest extent possible.

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

C.30:4-27.11c Patient not deprived of rights through receiving assessment, treatment.

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

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

c. A patient shall not be presumed to be mentally incapacitated solely because of an examination or treatment for mental illness.

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

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

C.30:4-27.11d Rights of patient in short-term care facility.

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

(1) To be free from unnecessary or excessive medication. Medication shall not be administered unless at the written or verbal order of a physician. A verbal order shall be valid only for a period of 24 hours, after which a written order for the medication shall be

completed. At least weekly, the attending physician shall review the drug regimen of each patient under the physician's care. Medication shall be administered in accordance with generally accepted medical standards as part of a treatment program. Medication shall not be used as punishment, for the convenience of staff, as a substitute for a treatment program, or in quantities that interfere with the patient's treatment program.

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

A patient's right to refuse medication when imminent danger to the patient or others is not present may be overridden by a written policy which has been adopted by the short-term care facility to protect the patient's right to exercise informed consent to the administration of medication. The written policy shall, at a minimum, provide for appropriate procedures that ensure notice to the patient of the decision by the attending physician or other designated physician to administer medication, and the right to question the physician about the physician's decision to administer medication and to provide information to the physician regarding that decision. The written policy shall also provide for review of the patient's decision to object to the administration of medication by a psychiatrist who is not directly involved in the patient's treatment. The psychiatrist shall not override the patient's decision to object to the administration of medication unless the psychiatrist determines that: the patient is incapable, without medication, of participating in a treatment plan that will provide a realistic opportunity of improving the patient's condition; or, although it is possible to devise a treatment plan that will provide a realistic opportunity of improving the patient's condition without medication, a treatment plan which includes medication would probably improve the patient's condition within a significantly shorter time period, or there is a significant possibility that, without medication, the patient will harm himself or others before improvement of the patient's condition is realized.

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

(2) Not to be subjected to psychosurgery or sterilization, without the express and informed, written consent of the patient after consultation with counsel or interested party of the patient's choice. A copy of the patient's consent shall be placed in the patient's treatment record. If the patient has been adjudicated incapacitated, a court of competent jurisdiction shall hold a hearing to determine the necessity of the procedure. The patient shall be physically present at the hearing, represented by counsel, and provided the right and opportunity to be confronted with and to cross-examine all witnesses alleging the necessity of the procedure. In these proceedings, the burden of proof shall be on the party alleging the necessity of the procedure. In the event that a patient cannot afford counsel, the court shall appoint an attorney not less than 10 days before the hearing. An attorney so appointed shall be entitled to a reasonable fee to be determined by the court and paid by the State.

(3) To be free from unnecessary physical restraint and seclusion. Except for an emergency in which a patient has caused substantial property damage or has attempted to harm himself or others, or in which the patient's behavior threatens to harm himself or others, and in which less restrictive means of restraint are not feasible, a patient may be physically restrained or placed in seclusion only on an attending physician's written order or that of another designated physician which explains the rationale for that action. The written order may be given only after the attending physician or other designated physician has personally

seen the patient, and evaluated the episode or situation that is said to require restraint or seclusion.

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

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

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

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

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

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

(1) To privacy and dignity.

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

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

(4) To have access to individual storage space for private use.

(5) To see visitors each day.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) In each instance of a denial or a renewal, the patient, the patient's attorney, and the patient's guardian, if the patient has been adjudicated incapacitated, shall be given written notice of the denial or renewal and the reason.

d. A notice of the rights set forth in this section shall be given to a patient in a short-term care facility upon admission. The notice shall be written in simple understandable language. It shall be in a language the patient understands and if the patient cannot read the notice, it shall be read to the patient. If a patient is adjudicated incapacitated, the notice shall be given to the patient's guardian. Receipt of this notice shall be acknowledged in writing with a copy placed in the patient's file. If the patient or guardian refuses to acknowledge receipt of the notice, the person delivering the notice shall state this in writing, with a copy placed in the patient's file.

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

C.30:4-27.11e Rights of patient in screening service.

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

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

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

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

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

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

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

While a patient is in restraints or seclusion, nursing personnel shall check the patient's hygienic, toileting, food-related, and other needs every 15 minutes. A notation of these checks shall be placed in the patient's medical record along with the order for restraints or seclusion. A patient in restraints shall be permitted to ambulate every four hours, except when the patient's psychiatric condition would make a release from restraints dangerous to

the patient or others, and shall be permitted to ambulate at least once every 12 hours regardless of the patient's psychiatric condition.

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

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

(1) To privacy and dignity.

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

(3) To wear the patient's own clothes, except as necessary for medical examination.

(4) To see visitors.

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

(6) To practice the patient's religion of choice or abstain from religious practices.

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

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

(a) the patient's general mental condition, and physical condition if the screening service has conducted a physical examination of the patient;

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

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

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

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

(9) To have a discharge plan prepared and to participate in the preparation of that plan.

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

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

d. A notice of the rights set forth in this section shall be given to a patient as soon as possible upon admission to the screening service. The notice shall be written in simple understandable language. It shall be in a language the patient understands and if the patient cannot read the notice, it shall be read to the patient. If the patient is adjudicated incapacitated, the notice shall be given to the patient's guardian. Receipt of this notice shall be acknowledged in writing with a copy placed in the patient's file. If the patient or guardian refuses to acknowledge receipt of the notice, the person delivering the notice shall state this in writing with a copy placed in the patient's file.

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

Couples not to be maintained in separate quarters, exceptions.

30:4-101. Married, domestic partnership, or civil union couples who are residents of a public institution maintained in whole or in part by the State, or a county, municipality, or subdivision thereof, shall not be maintained in separate quarters. This provision shall not

apply to institutions for persons with mental illness or developmental disabilities, or to correctional institutions or where the health or mental condition of the persons concerned warrants separation.

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

C.30:4-165.15 Modification, termination, review.

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

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

c. The Public Defender, the incapacitated person, or someone acting on behalf of the incapacitated person may institute a similar action for judicial review at any time.

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

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

C.30:4A-7 Admission of unconfined persons, procedure.

7. If the person for whom the diagnosis is sought by any court or agency of the State, county, or municipal government, desiring to utilize the services of the diagnostic center, is not under confinement or process, then admission to the diagnostic center shall be secured upon application to the Superior Court upon forms to be provided by the Department of Human Services. The county adjuster shall be the official charged with the responsibility of assisting with processing of the applications and shall perform functions similar to those set forth in Title 30 of the Revised Statutes. In connection with each application, the court shall order a hearing to be held, which may be in camera at the discretion of the court. At least 10 days' notice of the time, date, and place of the hearing shall be served upon the person, and if a minor or a person who is incapacitated, upon the parent, guardian, person standing in loco parentis, or person having custody and control of the minor or person who is incapacitated. At the hearing, the court shall determine whether the services of the diagnostic center shall be made available to the person and may order the person's confinement in the center for a period not to exceed 90 days, which order shall be provided to the center.

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

C.30:4D-17 Penalty.

17. (a) Any person who willfully obtains benefits under P.L.1968, c.413 (C.30:4D-1 et seq.) to which a person is not entitled or in a greater amount than that to which a person is entitled and any provider who willfully receives medical assistance payments to which a provider is not entitled or in a greater amount than that to which a provider is entitled is guilty of a crime of the third degree, provided, however, that the presumption of nonimprisonment set forth in subsection e. of N.J.S.2C:44-1 for persons who have not

previously been convicted of an offense shall not apply to a person who is convicted under the provisions of this subsection.

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

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

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

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

(i) affects a person's initial or continued right to any such benefit or payment, or

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

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

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

(1) The furnishing of items or services for which payment is or may be made in whole or in part under P.L.1968, c.413; or

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

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

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

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

(e) Any person, firm, corporation, partnership, or other legal entity who violates the provisions of any of the foregoing subsections of this section or any provisions of section 3 of P.L.2007, c.265 (C.2A:32C-3), shall, in addition to any other penalties provided by law, be liable to civil penalties of: (1) payment of interest on the amount of the excess benefits or

payments at the maximum legal rate in effect on the date the payment was made to said person, firm, corporation, partnership or other legal entity for the period from the date upon which payment was made to the date upon which repayment is made to the State; (2) payment of an amount not to exceed three-fold the amount of such excess benefits or payments; and (3) payment in the sum of not less than and not more than the civil penalty allowed under the federal False Claims Act (31 U.S.C. s.3729 et seq.), as it may be adjusted for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, Pub.L.101-410 for each excessive claim for assistance, benefits or payments.

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

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

(h) Upon the failure of any person, firm, corporation, partnership, or other legal entity to comply within 10 days after service of any order of the director or the director’s designee directing payment of any amount found to be due pursuant to subsection (g) of this section, or at any time prior to any final agency adjudication not involving a recipient or former recipient of benefits under P.L.1968, c.413, the director may issue a certificate to the clerk of the Superior Court that such person, firm, corporation, partnership, or other legal entity is indebted to the State for the payment of the amount. A copy of such certificate shall be served upon the person, firm, corporation, partnership, or other legal entity against whom the order was entered. Thereupon the clerk shall immediately enter upon the record of docketed judgments the name of the person, firm, corporation, partnership, or other legal entity so indebted, and of the State, a designation of the statute under which such amount is found to be due, the amount due, and the date of the certification. Such entry shall have the same force and effect as the entry of a docketed judgment in the Superior Court. Such entry, however, shall be without prejudice to the right of appeal to the Appellate Division of the Superior Court from the final order of the director or the director’s designee.

(i) In order to satisfy any recovery claim asserted against a provider under this section, whether or not that claim has been the subject of final agency adjudication, the division or its

fiscal agents is authorized to withhold funds otherwise payable under P.L.1968, c.413 to the provider.

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

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

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

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

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

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

C.30:6B-1 Commitment to Veterans Affairs or other agency of the United States.

1. If it is determined in a proceeding in a court of competent jurisdiction for the commitment of a person alleged to be mentally incapacitated or otherwise in need of confinement in a psychiatric hospital or other institution for the person's proper care, treatment, or safekeeping, that commitment is necessary and that the person is eligible for care or treatment by the Department of Veterans Affairs or other agency of the United States, the court may commit the person to the Department of Veterans Affairs or other agency instead of to a State institution, upon receipt of a certificate from the Department of Veterans Affairs or other agency showing that facilities are available and that the person is eligible for care or treatment therein, subject to the provisions of this act.

Upon commitment, and when admitted to a facility operated by any such agency, the person shall be subject to the rules and regulations of the Department of Veterans Affairs or other agency. The chief officer of a facility of the Department of Veterans Affairs or

institution operated by the other agency to which the person is committed shall, with respect to the retention of the person's custody, transfer, parole, or discharge, be vested with the same powers as that of the chief officer of a State institution if the person had been committed to a State institution.

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

C.30:6B-4 Transfer of eligible persons.

4. Upon receipt of a certificate of the Department of Veterans Affairs or other agency of the United States that facilities are available for the care or treatment of a person committed to an institution for the care and treatment of persons who are mentally incapacitated and that the person is eligible for care or treatment, the chief officer of the institution may, subject to the approval of the Commissioner of Human Services or of the court having jurisdiction over the person, transfer the person to the Department of Veterans Affairs or other agency for care or treatment.

A person transferred as provided in this section shall be deemed committed to the Department of Veterans Affairs or other agency, pursuant to the original commitment.

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

C.30:6D-4 Rights unaffected by admission, residence, receipt of services.

4. No person with a developmental disability shall be presumed to be incapacitated or shall be discriminated against or shall be deprived of any constitutional, civil, or legal right solely by reason of admission to or residence at a facility or solely by reason of receipt of any service for persons with developmental disabilities. No such admission, residence, or receipt of services shall modify or vary any constitutional, civil, or legal right of the person, including, but not necessarily limited to, the right to:

a. Register and vote at elections;

b. Free exercise of religion;

c. Receive and send unopened correspondence and, upon request, to obtain assistance in the writing and reading of that correspondence;

d. Private visitations and private telephone conversations without prior notice to the facility during reasonable hours as may be established by the facility with parents, guardians, representatives of guardian services, relatives, friends, physicians, attorneys, government officials, and any other persons;

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

f. Confidential handling of personal and medical records.

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

C.30:6D-5 Rights of persons receiving services for persons with developmental disability at facility.

5. a. No person receiving services for persons with developmental disabilities at any facility shall:

(1) be subjected to any corporal punishment;

(2) be administered any medication or chemical restraint, except upon the written authorization of a physician when necessary and appropriate as an element of the service being received or as a treatment of any medical or physical condition in conformity with

accepted standards for that treatment. The nature, amount of, and reasons for the administration of any medication or chemical restraint shall be promptly recorded in the person's medical record; or

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

The chief administrator of the facility, or the chief administrator's designee, shall be notified immediately upon the application of any restraint or isolation, and thereafter the restraint or isolation shall be continued only upon the written order of the administrator or designee. The order shall be effective for not more than 24 hours, and may be renewed for additional periods of not more than 24 hours each if the administrator or designee shall determine that continued restraint or isolation is necessary. While in restraint or isolation, the person shall be checked by an attendant every 15 minutes, and bathed every 24 hours. The restraint or isolation shall be terminated at any time if an attending physician shall find the restraint or isolation to be medically contraindicated. The nature, duration of, reasons for, and notation of attendant checks shall be promptly recorded in the person's medical record;

(4) be subjected to shock treatment, psychosurgery, sterilization, or medical behavioral or pharmacological research without the express and informed consent of the person, if an adult who has mental capacity, or of the person's guardian ad litem specifically appointed by a court for the matter of consent to these proceedings, if a minor or an adult who lacks mental capacity or a person administratively determined to have a mental deficiency. The consent shall be made in writing and shall be placed in the person's record.

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

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

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

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

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

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

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

b. Every person with a developmental disability in residence at any facility shall be provided with a nutritionally adequate and sufficient diet and shall receive appropriate and sufficient medical and dental care on a regular basis and whenever otherwise necessary.

c. Every person with a developmental disability between the ages of five and 21, inclusive, in residence or full-time attendance at any facility shall be provided a thorough and efficient education suited to the person's age and abilities.

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

Appointment of superintendents, physicians for county hospitals.

30:9-1. The counties of the first class shall appoint a superintendent for each county hospital and the physicians for the several county hospitals. The term of office of the physicians shall be two years. The term of office of the superintendents of the county hospitals shall be as provided by R.S.30:9-12.

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

C.30:9-3.1 Commissary or store; establishment; cost; profits.

1. Counties are empowered to maintain a commissary or store for the sale of commodities to patients, patients' visitors, and employees of any county psychiatric hospital under rules to be adopted by the county. The cost of establishing the commissary or store may be defrayed out of funds appropriated for current maintenance. Any profit may be used for recreational entertainment of the patients or another like purpose.

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

Enlargement of or additions to psychiatric hospital.

30:9-4. If a psychiatric hospital is owned and maintained by the county, and it becomes necessary either to enlarge the hospital by the building of additions or extensions, or to erect additional buildings for the accommodation of the patients, the board of chosen freeholders or governing body of the county may, upon a resolution or ordinance, as appropriate, to be adopted by the affirmative votes of two-thirds of the full authorized membership of the board, build additions, extensions, additional building or buildings, and properly fit, furnish, and equip them.

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

Issuance of bonds by county.

30:9-5. The county may issue bonds in the corporate name of the county to meet the expense of erecting new buildings, additions, or accommodations at a county psychiatric hospital, and making repairs to or otherwise properly fitting, furnishing, and equipping the buildings.

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

Consolidation of county psychiatric hospitals.

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

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

Sale of lands, buildings by county.

30:9-7. If county psychiatric hospitals are consolidated as provided by R.S.30:9-6, the county may sell its lands and buildings used for a psychiatric hospital that are unnecessary for hospital purposes, and the sale and conveyance of the lands shall vest in the purchaser title in fee to the premises so sold. The proceeds of the sale shall be applied to the sinking funds of the county or to the redemption of county bonds, and not otherwise.

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

Change of location of county psychiatric hospital.

30:9-8. If the board of chosen freeholders or the governing body of the county determines, by a resolution or ordinance, as appropriate, adopted by the affirmative votes of at least two-thirds of the full authorized membership of the board, that a county psychiatric hospital under its management and control is unsuitably located, and that it is expedient and desirable that the location thereof should be changed to some other place in its county, the county may make the change.

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

Agreement for relocation between counties.

30:9-9. If the county desiring to change the location of a county psychiatric hospital under authority of R.S.30:9-8 determines there is no suitable location at which the hospital might be relocated, and desires to locate the hospital in another county of this State, it may do so by entering into an agreement with the other county, either to build and maintain the hospital jointly, or to build and maintain the hospital by one county with the right in the other county to commit its patients therein, at a sum per week per patient to be agreed upon.

If both counties agree to build and maintain the hospital jointly, they shall concur upon the site, appoint an architect, and approve plans and specifications, and do and perform

everything necessary for completion of the work authorized and the maintenance thereafter, including employment of physicians and other necessary employees.

If by their agreement one county builds and maintains the hospital, that county shall select the site, appoint the architect, and approve the plans and specifications, and do and perform everything necessary for completion of the work authorized, and the maintenance thereafter, including employment of physicians and other necessary employees.

If a county decides to change the location of its hospital, one or more counties depending upon their agreement shall have full power and authority to acquire lands within or without the county by gift, devise, purchase, or condemnation, to erect suitable buildings, and to fit, furnish, and equip the buildings, lay out the grounds, make provision for utilities and mass transit connections, and do and perform whatever is necessary or appropriate to establish a modern psychiatric hospital.

The funds to acquire the lands, erect the buildings, and perform the work, including the purchase of materials and fittings, furnishings, and equipment authorized, except for maintenance only, shall be raised by one or more counties doing the work, each to the extent of its share, by the issue and sale of bonds paid by the county treasurer or treasurers, in accordance with the counties' agreement.

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

Contracts for county psychiatric hospitals.

30:9-11. If the cost of work performed and materials furnished in the construction, fitting, furnishing, and equipping of county psychiatric hospitals, or laying out the grounds, as provided by R.S.30:9-9, exceeds $1,000, the work shall be performed and materials furnished on a contract awarded to the lowest responsible bidder who shall furnish satisfactory security to the county or counties undertaking the work, on bids duly advertised in the county or counties. If buildings are to be constructed, the advertisement shall be published for at least two weeks, once in each week; and if joint counties undertake the work, they shall appoint a committee to advertise and receive the bids and to report the bids to their governing bodies at their next meetings.

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

Superintendents.

30:9-12. Counties of the first class, in appointing superintendents for the county psychiatric hospitals, may designate and prescribe the terms of office of the superintendents, which shall not exceed five years.

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

C.30:13-6 Discharge or transfer of resident.

6. A nursing home resident may arrange for the resident's own discharge from a nursing home upon presentation of a written release and, if the resident is adjudicated incapacitated, upon the written consent of the resident's guardian. In this case, the nursing home is free from any responsibility for the resident upon the resident's release. When a nursing home wishes to transfer or discharge on a nonemergency basis a resident who has mental capacity or a resident who is adjudicated incapacitated, the nursing home may do so for medical reasons or for the person's welfare or for that of other residents upon receiving a written

order from the attending physician, or for nonpayment, except as prohibited by Title XVIII or Title XIX of the Social Security Act, as amended, and the action shall be recorded in the resident's medical record. When a transfer or discharge on a nonemergency basis of a resident is requested by a nursing home, the resident or, in the case of a resident who is adjudicated incapacitated, the guardian, shall be given at least 30 days' advance notice of the transfer or discharge.

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

Modification of agreement.

34:15-27. An agreement for compensation may be modified at any time by a subsequent agreement. Upon the application of any party, a formal award, determination, judgment, or order approving settlement may be reviewed within two years from the date when the injured person last received a payment on the ground that the incapacity of the injured employee has subsequently increased. If a party entitled to a review under this section shall become mentally incapacitated within the two-year period, the mental incapacity shall constitute grounds for tolling the unexpired balance of the two-year period, which shall only begin to run again after the party returns to mental capacity. An award, determination, judgment, or order approving settlement may be reviewed at any time on the ground that the disability has diminished. In such case, the provisions of R.S.34:15-19 with reference to medical examination shall apply.

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

Consent for minors; requirements.

37:1-6. A marriage or civil union license shall not be issued to a minor under the age of 18 years, unless the parents or guardian of the minor, if any, first certify, in the presence of two reputable witnesses, consent thereto, which shall be delivered to the licensing officer issuing the license. Consent to the proposed marriage or civil union by a parent or guardian who is mentally incapacitated shall not be required.

When a minor is under the age of 16 years, the consent required by this section must be approved in writing by a judge of the Superior Court, Chancery Division, Family Part and filed with the licensing officer.

The licensing officer shall transmit to the State registrar all consents, orders, and approvals subject to the same penalty as in the case of marriage or civil union certificates or licenses.

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

When issuance of license prohibited.

37:1-9. No marriage license shall be issued when, at the time of making an application therefor, either applicant is a person currently adjudicated incapacitated.

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

C.40:11A-22.2 Qualification for appointment as parking enforcement officer.

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

a. is a resident of this State during the term of appointment;

b. is able to read, write, and speak the English language proficiently;

c. has the mental capacity and physical ability to perform the tasks of parking enforcement officer;

d. is of good moral character;

e. has not been convicted of any offense involving dishonesty or which would make the person unfit to perform the duties of the office.

108. R.S.40:65-3 is amended to read as follows:

Service of notice.

40:65-3. The notice may be served upon all owners residing in the municipality, personally, or by leaving the same at their usual place of residence with a member of the family above the age of fourteen years. In the case of minors and incapacitated persons, the notice shall be served upon their guardians; when any real estate is held in trust, upon the trustee; when held by joint tenants, tenants in common or by the entirety, upon any one such tenant. If the owner of the real estate is a nonresident of the municipality, the notice may be served upon the owner personally, or upon the owner’s agent in charge of the property, or upon the occupant thereof, or mailed to the nonresident owner at the nonresident owner’s last known post-office address.

109. Section 3 of P.L.1987, c.260 (C.40A:9-154.9) is amended to read as follows:

C.40A:9-154.9 Minimum qualifications for appointment as parking enforcement officer.

3. No person may be appointed as a parking enforcement officer unless, at a minimum, the person:

a. Is a resident of this State during the term of appointment;

b. Is able to read, write, and speak the English language proficiently;

c. Has the mental capacity and physical ability to perform the tasks of parking enforcement officer;

d. Is of good moral character; and

e. Has not been convicted of any offense involving dishonesty or which would make the person unfit to perform the duties of the office.

110. Section 41 of P.L.1988, c.130 (C.42:2A-8.2) is amended to read as follows:

C.42:2A-8.2 Resignation of registered agent.

42:2A-8.2. Resignation of registered agent. a. The registered agent of a domestic limited partnership or a foreign limited partnership authorized to transact business in this State may resign by complying with the provisions of this section.

b. The registered agent, or, in the case of a registered agent who is deceased or has been adjudicated incapacitated by a court of competent jurisdiction, the agent's legal representative, shall serve a notice of resignation by certified mail, return receipt requested, upon a general partner or general partners of the limited partnership at the address last known to the agent, and shall make an affidavit of service. If service cannot be made, the affidavit shall so state, and shall state briefly why service cannot be made. The affidavit, together with a copy of notice of resignation, shall be filed in the Office of the Secretary of State.

c. The resignation shall become effective 30 days after the filing in the office of the Secretary of State of the affidavit of service or upon the designation by the limited

partnership of a new registered agent pursuant to this act, whichever is earlier. If the limited partnership fails to designate a new registered agent within the 30-day period, the limited partnership shall thereafter be deemed to have no registered agent or registered office in this State, until the limited partnership files a certificate of change of address of registered office and registered agent indicating the new registered office and registered agent.

d. If any certificate of change replacing a resigned agent is not filed, the limited partnership shall, after written demand therefor by the Secretary of State, forfeit to the State a penalty of $200 for each year or part thereof until an agent is appointed. The Secretary of State may issue a certificate to the Clerk of the Superior Court that the limited partnership is indebted for the payment of this penalty. This certificate shall be entered by the Clerk as a judgment docketed in the Superior Court, and shall have the same form as a docketed judgment.

111. Section 30 of P.L.1983, c.489 (C.42:2A-31) is amended to read as follows:

C.42:2A-31 Events of withdrawal of a general partner.

30. Events of withdrawal of a general partner. Except as approved by the specific written consent of all partners at the time, a person ceases to be a general partner of a limited partnership upon the happening of any of the following events:

a. The general partner withdraws from the limited partnership as provided in section 39 of P.L.1983, c.489 (C.42:2A-40);

b. The general partner ceases to be a member of the limited partnership as provided in section 46 of P.L.1983, c.489 (C.42:2A-47);

c. The general partner is removed as a general partner in accordance with the partnership agreement;

d. Unless otherwise provided in the certificate of limited partnership, the general partner: (1) makes an assignment for the benefit of creditors; (2) files a voluntary petition in bankruptcy; (3) is adjudicated a bankrupt or insolvent; (4) files a petition or answer seeking for himself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation; (5) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against him in any proceeding set forth in (4) above; or (6) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of his properties;

e. Unless otherwise provided in the certificate of limited partnership, 120 days after the commencement of any proceeding against the general partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, the proceeding has not been dismissed, or if within 90 days after the appointment without his consent or acquiescence of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of his properties, the appointment is not vacated or stayed, or within 90 days after the expiration of any stay, the appointment is not vacated;

f. In the case of a general partner who is a natural person, the partner's death, or the entry by a court of competent jurisdiction of a judgment adjudicating the partner incapacitated to manage the partner's person or estate;

g. In the case of a general partner who is acting as a general partner by virtue of being a trustee of a trust, the termination of the trust (but not merely the substitution of new trustee);

h. In the case of a general partner that is a separate partnership, the dissolution and commencement of winding up of the separate partnership;

i. In the case of a general partner that is a corporation, the filing of a certificate of dissolution, or its equivalent, for the corporation or the revocation of its charter; or

j. In the case of an estate, the distribution by the fiduciary of the estate's entire interest in the partnership.

112. Section 49 of P.L.1983, c.489 (C.42:2A-50) is amended to read as follows:

C.42:2A-50 Power of personal representative of deceased or incapacitated person; representative or successor of corporation, trust, or other entity.

42:2A-50. Power of personal representative of deceased or incapacitated person; representative or successor of corporation, trust, or other entity. If a partner who is an individual dies or a court of competent jurisdiction adjudges the partner to lack the mental capacity to manage the partner's person or property, the partner's executor, administrator, guardian, conservator, or other legal representative may exercise all the partner's rights for the purpose of settling the partner's estate or administering the partner's property, including any power the partner had to give an assignee the right to become a limited partner. If a partner is a corporation, trust, or other entity and is dissolved or terminated, the powers of that partner may be exercised by its legal representative or successor.

113. R.S.42:4-13 is amended to read as follows:

Dissolution authorized; application; order of dissolution.

42:4-13. If a member of a partnership is adjudicated incapacitated, the court may on application of another partner or other person as the court shall determine to be entitled to make the application, dissolve the partnership. The court may proceed in the action in a summary manner or otherwise.

114. R.S.42:4-14 is amended to read as follows:

Powers and duties of guardian in general.

42:4-14. When a partnership is dissolved as provided by R.S.42:4-13, or is otherwise lawfully dissolved, and a partner has been adjudicated incapacitated, the guardian of the partner who is incapacitated, in the name and on behalf of that partner, may concur with the other partners or other persons interested in disposing of the partnership property, as directed by the court.

115. R.S.42:4-15 is amended to read as follows:

Conveyances by guardian.

42:4-15. The guardian mentioned in R.S.42:4-14 may make and execute all conveyances and do all things necessary to effectuate the provisions of this article and shall also dispose of all money or property received for, from, or on account of the share or interest in the partnership of the partner who is mentally incapacitated, as the court may direct.

116. Section 13 of P.L.2007, c.92 (C.43:15C-13) is amended to read as follows:

C.43:15C-13 Disability benefit coverage.

13. The disability benefit coverage provided under a group policy or policies shall provide a monthly income if the participant becomes totally disabled from occupational or nonoccupational causes for a period of at least six consecutive months following the effective date of the coverage. The monthly disability benefit may be paid by the insurance company so long as the participant remains disabled up to the 70th birthday, provided the disability commenced prior to the 60th birthday. The benefit shall terminate when the participant is no longer considered totally disabled or begins to receive retirement benefits.

The participant shall be considered totally disabled if the participant is unable to perform each duty of the participant's occupation and is under the regular care of a physician. After the 24 months following the commencement of the disability benefit payments, the participant shall be unable to engage in any gainful occupation for which the participant is reasonably fitted by education, training, or experience. Total disability shall not be considered to exist if the participant is gainfully employed. Following an agreement with the insurance company and the policyholder, the participant may continue to receive disability benefits for a limited time while performing some type of work. During the period of rehabilitation, the monthly benefit shall be the regular payment less 80% of the participant's earnings from the rehabilitative position.

A participant shall be deemed to be in service and covered by the disability benefit insurance provisions for a period of no more than six months while on official leave of absence without pay if satisfactory evidence is presented to the Division of Pensions and Benefits that the leave of absence without pay is due to illness and that the participant was not actively engaged in any gainful occupation during the period of leave of absence without pay.

Disability benefit insurance provisions of the group policy or policies shall not cover disability resulting from or contributed to by pregnancy, act of war, intentionally self-inflicted injury, or attempted suicide regardless of the person's mental capacity. For purposes of the disability benefit coverage, the participant shall not be considered to be disabled while the participant is imprisoned or while outside the United States, its territories or possessions, or Canada.

If the participant has recovered from the disability for which the member had received benefits and again becomes totally disabled while insured, the later disability shall be regarded as a continuation of the prior one unless the participant has returned to full-time covered employment for at least six months. If the later absence is due to an unrelated cause and the participant had returned to full-time work, it shall be considered a new disability. The disability benefit insurance cannot be converted to an individual policy.

No participant shall be covered by the disability benefit provision of the group policy or policies except upon the completion of one year of full-time continuous employment in a position eligible for participation in the Defined Contribution Retirement Program. For a member who is a participant pursuant to paragraph (5) of subsection a. of section 2 of P.L.2007, c.92 (C.43:15C-2) as amended by section 12 of P.L.2007, c.103 and section 7 of P.L.2010, c.1, completion of one year of full-time continuous employment in a position eligible for membership in the Teachers' Pension and Annuity Fund, Police and Firemen's Retirement System, State Police Retirement System, or the Public Employees' Retirement System shall also be considered in determining if the participant met the requirements of this paragraph.

117. R.S.44:1-1 is amended to read as follows:

Definitions.

44:1-1. As used in this chapter:

"Almshouse" means a place where the poor are maintained at the public expense of a municipality or county, which has not established and does not maintain a welfare-house.

"Commissioner" means the Commissioner of Human Services.

"County adjuster" means the official of that designation authorized to act in the cases of commitment or admission of persons who have a mental illness to state or county psychiatric hospitals.

"May" shall be construed to be permissive.

"Municipality" shall not include, in meaning, a county, unless otherwise indicated by the context, but shall include a city, borough, township, town, village, or municipality governed by an improvement commission.

"Overseer" means a person who is charged with the superintendence and relief or removal of the poor within the overseer's jurisdiction or found in the overseer's municipality, and means superintendent in all cases where a superintendent as defined in this section is authorized to act when there is no overseer.

"Permanent or indoor poor" means poor persons who may be better relieved or maintained and supported under the provisions of this chapter by commitment to a welfare-house, almshouse, or, with limitations, in the home.

"Poor person" means one who is unable to maintain himself or those dependent upon him.

"Public charge" means a person to whom it is necessary to furnish proper relief as provided in this chapter.

"Settlement of a person" means a person's right under the provisions of this chapter to relief or maintenance and support in a municipality, county, or counties.

"State board" means the State Board of Human Services.

"Superintendent" means the employee of a welfare board of a county or district authorized to act for it and under its direction and to act for overseers where there are none.

"Temporary or outdoor poor" means poor persons who can be relieved temporarily at their domicile or without being maintained in an almshouse or welfare-house.

"Voluntary wards of the county welfare board" means persons admitted to a county welfare-house on application to the county welfare board and not supported entirely at public expense.

"Welfare board" means the board of one or more counties authorized to have charge, supervision, and control of a welfare-house and to supervise through a superintendent such work for or in relation to the poor as directed or authorized.

"Welfare-house" means a place where persons unable to care for and maintain themselves in whole or in part by reason of age, infirmity or poverty may be cared for and maintained in whole or in part at the expense of a county or municipality under the superintendent of a county welfare board in a county or portion thereof or districts composed of more than one county or portions thereof.

"District welfare-house" where so mentioned, means one established and maintained by more than one county or portions thereof.

118. R.S.44:4-1 is amended to read as follows:

Definitions.

44:4-1. As used in this chapter:

"Almshouse" means a place for the maintenance of the poor at the public expense of a county or municipality, prior to the establishment of a welfare-house.

"Commissioner" means the Commissioner of Human Services.

"County adjuster" means the official of that designation authorized to act in the cases of commitment or admission of persons who have a mental illness to State or county hospitals for the insane.

"County welfare board" means the board of a single county authorized to have charge, supervision and control of a county welfare-house and the administration of the settlement and relief of the poor for such county and to supervise through a director of welfare such work for or in relation to the poor as directed or authorized.

"Director of welfare" means an employee of a county welfare board with authority to act for it and under its direction, and to act for and in lieu of overseers where there are none, and perform the functions of and replace the office of overseer.

"May" shall be construed to be permissive.

"Municipality" shall not include, in meaning, a county, unless otherwise indicated by the context, but shall include any city, borough, township, town, village or municipality governed by an improvement commission.

"Permanent or indoor poor," as found in this chapter, shall mean a disabled person who has been diagnosed by a regular practicing physician as being unemployable due to a mental or physical condition, providing such condition is in the physician's opinion of permanent nature, and further providing that the disabled person is not eligible for any other type of categorical aid.

"Poor person" means a permanently disabled person who is without means of support as defined above.

"Public charge" means a person to whom it is necessary to furnish proper relief as provided in this chapter.

"Settlement of a person" means his right under the provisions of this chapter to relief or maintenance and support in any county or counties.

"State board" means the State Board of Human Services.

"Temporary or outdoor poor" means poor persons who can be relieved temporarily at their domicile or without being maintained in an almshouse or welfare-house.

"Welfare-house" means a place where the poor are maintained at the public expense under the superintendence of a county welfare board in any county.

"Disabled person" means any person entitled to relief under this chapter.

119. R.S.44:7-1 is amended to read as follows:

Definitions.

44:7-1. As used in this chapter:

"Commissioner" means the Commissioner of Human Services.

"State board" means the State Board of Human Services.

"State division" means the bureau of assistance as set up within the Department of Human Services.

"Director of old age assistance" means the chief of the State bureau of assistance.

"Director of welfare" means the director of the county welfare board.

"County welfare board" means the boards established within the several counties for the purposes of administering welfare to the needy, whether set up under the authority of this chapter or pursuant to any other laws of this State.

"Assistance" means money payments to or on behalf of eligible persons.

"Old age assistance" means assistance to aged needy persons as provided by this chapter, and, unless otherwise indicated, includes all programs of assistance for other specified classes of persons authorized to be administered by or through the county welfare boards.

"County adjuster" means the official of that designation authorized to act in cases of commitment or admission of persons who have a mental illness to State or county hospitals for the insane.

"Federal aid" means grants-in-aid to the State as provided for in the Federal Social Security Act, approved August 14, 1935, as amended.

"Institution" means any establishment, whether in single or multiple dwellings, whether public or private, whether incorporated or unincorporated, whether for profit or nonprofit, operated at the direction of or under the management of an individual or individuals, corporation, partnership, society, or association, which furnishes food and shelter for 4 or more persons unrelated to the proprietor and which provides medical or nursing service or any other personal care or service beyond food, shelter, and laundry, to any 1 or more of such persons.

120. Section 1 of P.L.1964, c.155 (C.44:11-1) is amended to read as follows:

C.44:11-1 Definitions.

1. As used in P.L.1964, c.155 (C.44:11-1 et seq.):

"Court" means the Superior Court in the county whose welfare board is responsible for making payments of public assistance to or for the benefit of the recipient or, in cases where a representative payee has been appointed pursuant to P.L.1964, c.155, the Superior Court having made such appointment.

"Functionally incapacitated" means subject to a mental, physical, or emotional condition which renders the individual incapable of receiving and utilizing payments of public assistance in a manner conducive to the health and well-being of the individual and the individual's dependents.

"Representative payee" means a person appointed by a court to act for a recipient to the extent of receiving and administering payments of public assistance.

"Public assistance" means "old age assistance" and "disability assistance" as authorized by Revised Statutes, Title 44, chapter 7; "blind assistance" as authorized by Revised Statutes, Title 30, chapter 6; "assistance for dependent children" as authorized by chapter 86, laws of 1959; together with amendments and supplements to any of the foregoing; and any other program administered through the county welfare boards, by whatever name now or hereafter known, which is authorized to provide financial assistance to needy persons in the form of money payments.

"Recipient" means a person who has been found eligible to receive payments of public assistance.

"Welfare board" means the county welfare board or board of social services responsible for making payments of public assistance to or for the benefit of the recipient.

121. Section 2 of P.L.1964, c.155 (C.44:11-2) is amended to read as follows:

C.44:11-2 Appointment of representative payee; contents of complaints.

2. Whenever it appears necessary to appoint a representative payee for a recipient who is functionally incapacitated, a complaint seeking such appointment may be filed with the court

by the welfare board. The complaint shall set forth the name, age, and place of residence of the recipient; the name and place of residence of the nearest relative of the recipient, if known; and that the recipient has been found otherwise eligible to receive a grant of public assistance.

122. Section 3 of P.L.1964, c.155 (C.44:11-3) is amended to read as follows:

C.44:11-3 Statement that recipient is functionally incapacitated.

3. A verified statement by the director of the welfare board, or the director's authorized representative, annexed to the complaint and setting forth that a review by the Division of Family Services in the Department of Human Services indicates that the recipient is functionally incapacitated, shall be prima facie evidence of the necessity for the appointment.

123. Section 4 of P.L.1964, c.155 (C.44:11-4) is amended to read as follows:

C.44:11-4 Hearing; evidence; appointment of representative.

4. Upon the filing of a complaint and verified statement as provided by P.L.1964, c.155 (C.44:11-1 et seq.), the court shall proceed in a summary manner to hear testimony for the purpose of determining whether the recipient is functionally incapacitated. The written certification of two physicians who have been in the actual practice of medicine and surgery in this State for at least five years shall be sufficient, but not required, evidence to establish the condition of the recipient. If the court is satisfied that the recipient is functionally incapacitated, the court shall appoint a fit and proper person as representative payee for the recipient.

124. Section 7 of P.L.1964, c.155 (C.44:11-7) is amended to read as follows:

C.44:11-7 Discharge of representative.

7. (a) When at a hearing held upon application of the recipient the court determines from the certification of two physicians, or other acceptable evidence, that the recipient is no longer functionally incapacitated, the court may discharge the representative payee.

(b) Whenever it appears upon application and good cause shown by the representative payee or the welfare board that the representative payee should be relieved of the representative payee's duties, the court may discharge the representative payee and, if the circumstances still require, appoint a replacement for the representative payee.

125. Section 6 of P.L.1985, c.256 (C.45:14B-36) is amended to read as follows:

C.45:14B-36 Valid authorization.

6. A valid authorization for the purpose of P.L.1985, c.256 (C.45:14B-30 et seq.) shall:

a. Be in writing;

b. Specify the nature of the information to be disclosed, the person authorized to disclose the information, to whom the information may be disclosed, the specific purposes for which the information may be used, both at the time of disclosure and at any time in the future;

c. Specify that the patient is aware of the statutory privilege accorded by section 28 of P.L.1966, c.282 (C.45:14B-28) to confidential communications between a patient and a licensed psychologist;

d. State that the consent is subject to revocation at any time;

e. Be signed by the patient or the person authorizing the disclosure. If the patient is adjudicated incapacitated or is deceased, the authorization shall be signed by the patient's legally authorized representative. When the patient is more than 14 years of age but has not yet reached majority, the authorization shall be signed by the patient and by the patient's parent or legal guardian. When the patient is less than 14 years of age, the authorization shall be signed only by the patient's parent or legal guardian; and

f. Contain the date upon which the authorization was signed.

126. Section 1 of P.L.1953, c.269 (C.47:3-9) is amended to read as follows:

C.45:3-9 Removal, destruction of certain papers.

1. Whenever papers as described herein have been on file in the office of the county clerk or register of deeds and mortgages for more than the number of years specified, the county clerk or register of deeds and mortgages, having charge thereof, may direct the papers be removed and destroyed, subject, however, to the limitations imposed herein.

The following may be removed and destroyed pursuant to the provisions of this act:

(a) Admissions to the bar, notices of intention to apply for admissions, after one year;

(b) Appeals, notices from local criminal courts, and other papers incidental thereto, where the appeals were not heard and disposed of by specific court action, after five years;

(c) Bills of sale upon condition and other papers in the nature of conditional bills of sale, after six years; provided their expiration dates occurred prior to the six years; and further provided, if their expiration dates shall have been extended by the acts of the parties and notice of the acts shall have been given to the county recording officer, then after six years from their expiration dates as so extended; and further provided, that bills of sale under seal, after twenty-two years instead of after six years;

(d) Bonds given as bail and recognizances in connection with or in lieu of bail, and discharges of the same, after six years; provided notations thereof have been entered on the dockets;

(e) Bonds under orders of filiation, after twenty years;

(f) Certificates of authority filed by insurance and bonding companies, after six years;

(g) Chattel mortgages, after six years; provided their expiration dates occurred prior to the six years; and further provided, if their expiration dates shall have been extended by the acts of the parties and notice of the acts shall have been given to the county recording officer, then after six years from their expiration dates as so extended; and further provided, that chattel mortgages under seal, after twenty-two years instead of after six years;

(h) Contracts, plans, and specifications for the construction of buildings and other structures except for public buildings, after ten years;

(i) Convictions of disorderly persons, after five years;

(j) Costs, bills of costs taxed by the clerk, both civil and criminal, after twenty years; provided notations thereof have been entered on the dockets;

(k) Depositions, which are not within the scope of any applicable court rule and which do not pertain to any pending court action or proceeding, after ten years;

(l) Delinquent municipal tax returns for real and personal property and discharges therefor, after twenty years;

(m) Elections returns, certificates of, and all other papers relating to elections, including primary petitions, returns for primary and general elections, and statements of candidates' campaign managers and treasurers, after five years;

(n) Executions returned by the sheriff, both satisfied and unsatisfied, after twenty years; provided notations thereof have been entered on the dockets;

(o) Extradition papers including applications for writs of habeas corpus, except judgments thereon, after five years;

(p) Indictments, accusations, informations, and complaints in the nature thereof, if nolle prossed, or if the defendant charged thereby has been convicted or acquitted, or if the court has otherwise disposed of the same, after five years;

(q) Inquests conducted by the coroners, and their reports, and other papers relating to sudden deaths, after ten years;

(r) Insolvency proceedings, assignments for the benefit of creditors, inventories in the proceedings, discharges of insolvents, and other papers relating or incidental to insolvency proceedings, after twenty years;

(s) Institutions and agencies, commitments other than in criminal or mental incapacity cases, reports, and other papers relating to institutions and agencies, after thirty years;

(t) Judgment transcripts for docketing, after twenty years; provided notations thereof have been entered on the dockets;

(u) Judgments, satisfactions and discharges, and releases of judgments, after twenty years; provided notations thereof have been entered on the dockets;

(v) Juries, lists of Grand and petit juries, and other papers relating to summoning, impaneling, and the charging of the juries, after five years;

(w) Justices of the peace bonds, dockets, files, and papers, after twenty years;

(x) Licenses for hunting, including applications, after two years;

(y) Lien notices and claims other than mechanics' lien claims, and other than lien notices or notices in the nature of lien notices filed by any State, county, or municipal agency, after six years;

(z) Lists of causes for trial calendars, including notices of trial, after one year;

(aa) Proceedings for commitments to psychiatric institutions, including medical and other reports relating thereto, after thirty years;

(bb) Mechanics' lien and construction lien claims, notices of intention, notices of unpaid balance and right to file lien, stop notices, and all papers relating to mechanics' lien and construction lien claims, other than proceedings and actions in the courts brought to enforce the lien claims, after six years;

(cc) Notary public certificates and qualifying papers, after five years;

(dd) Notices and other papers, authorized or required by law to be filed but not recorded and not involving title to real or personal property or to proceedings or actions in any court, after ten years;

(ee) Oaths of office of persons whose incumbency in office has ceased, after five years; provided the term of office of the person expired prior to the five years;

(ff) Permits to carry firearms which have expired, including the applications therefor, after two years;

(gg) Prison records and reports and papers relating thereto, after five years;

(hh) Probation reports and papers relating thereto, after five years;

(ii) Referees' reports, not forming a part of the record of a proceeding or action in court, after six years;

The several periods of time shall be computed from the date of the filing of the papers.

The county clerk and the register of deeds and mortgages may retain on file any of the papers as a part of the permanent records of the office.

127. R.S.48:12-151 is amended to read as follows:

Limitation of certain actions.

48:12-151. All actions accruing from injuries to persons caused by the wrongful act, neglect, or default of any railroad company owning or operating any railroad within this State, shall be commenced and sued within two years next after the cause of action accrued, and not after, except for injuries to minors and incapacitated persons occurring subsequent to the effective date of R.S.48:12-151. Actions by an executor or administrator for injuries causing the death of the testator or intestate shall be commenced and sued within two years next after the death, and not after. All actions for injury done to any property by fire communicated by an engine of any railroad company of any railroad within this State shall be commenced and sued within two years after the cause of action accrued, and not after, except that action for injury occurring after the effective date of this act shall be commenced within six years after the cause of action accrued, and not thereafter.

128. Section 7 of P.L.1971, c.317 (C.52:4B-7) is amended to read as follows:

C.52:4B-7 Hearings by review board.

7. Hearings on appeals from decisions of the Victims of Crime Compensation Agency involving issues of victim compensation shall be conducted by the Victims of Crime Compensation Review Board in the following manner:

a. Upon an application made to the board under the provisions of the "Criminal Injuries Compensation Act of 1971," P.L.1971, c.317, the board shall fix a time and place for a hearing on the application and shall cause notice thereof to be given to the applicant.

b. For the purpose of carrying out the provisions of the "Criminal Injuries Compensation Act of 1971," P.L.1971, c.317, the board, or any member thereof, may hold hearings, sit, and act at times and places, and take testimony as the board or any member may deem advisable. Any member of the board may administer oaths or affirmations to witnesses. The board shall have full powers of subpoena and compulsion of attendance of witnesses and production of documents, except that no subpoena shall be issued except under the signature of a member of the board, and application to any court for aid in enforcing the subpoena may be made in the name of the board by any member thereof. Subpoenas shall be served by any person designated by the board.

c. In any case in which the person entitled to make an application is a child, the application may be made on the person's behalf by the person's parent, guardian, or advocate. In any case in which the person entitled to make an application is incapacitated, the application may be made on the person's behalf by the guardian, advocate, or other individual authorized to administer the person's estate.

d. Any person having a substantial interest in a proceeding may appear, produce evidence, and cross-examine witnesses in person or by attorney.

e. The board may receive in evidence any statement, document, information, or matter that may in the opinion of the board contribute to its functions under the "Criminal Injuries Compensation Act of 1971," P.L.1971, c.317, but the board shall not be bound by the rules of evidence.

f. If any person has been convicted of any offense with respect to an act or omission on which a claim under the "Criminal Injuries Compensation Act of 1971," P.L.1971, c.317 is based, proof of that conviction shall be taken as conclusive evidence that the offense has been committed, unless an appeal or any proceeding with regard thereto is pending.

129. R.S.52:14-13 is amended to read as follows:

Mental incapacity of State officer to vacate office.

52:14-13. When an officer of this State or a member of a State board or commission is unable to perform the duties of the commission or appointment because of mental incapacity, the commission or appointment of the officer or member shall become vacated and void, and a vacancy shall thereupon exist in the office, the same as though the officer or member had resigned or died.

130. Section 1 of P.L.2002, c.118 (C.52:17B-139.7) is amended to read as follows:

C.52:17B-139.7 Notification to fire department by provider of medical oxygen, oxygen delivery system of patient’s name, residence, age.

1. A licensed pharmacist or other provider of oxygen or an oxygen delivery system who has supplied oxygen or an oxygen delivery system to a patient on an order from a licensed health care provider shall notify the appropriate fire department or company serving the municipality in which the patient resides of the name, address, and age of the patient and the existence of the oxygen or oxygen delivery system at the patient's residence, in accordance with the provisions of P.L.2002, c.118 (C.52:17B-139.7 et seq.).

a. Prior to notification, a pharmacist or other provider of oxygen or an oxygen delivery system shall inform the patient of the notification requirements of this act and obtain written informed consent from the patient for the notification.

If the patient is legally incapacitated, the pharmacist or other provider of oxygen or an oxygen delivery system shall inform an authorized representative of the patient of the notification requirements of P.L.2002, c.118 and obtain the written informed consent from the authorized representative.

b. Written informed consent shall consist of a statement, on a form or in a manner to be determined by the Director of the Division of Consumer Affairs in the Department of Law and Public Safety, signed by the patient or by an authorized representative of the patient, which acknowledges that the pharmacist or other provider of oxygen or an oxygen delivery system has provided the patient with information regarding the notification requirements of P.L.2002, c.118, and that the patient or authorized representative of the patient consents to the notification.

c. If the patient or the patient’s authorized representative declines to give informed consent for the notification, the pharmacist or other provider of oxygen or an oxygen delivery system is required to inform the patient or the patient’s authorized representative that the patient or representative is obligated to notify the appropriate fire department or company of the patient's name, address, age, and of the existence of oxygen or an oxygen delivery system at the patient’s residence. The pharmacist or other provider also shall inform the patient or his authorized representative that the patient or representative is obligated to notify the appropriate fire department or company whenever the supplying of oxygen or the providing of an oxygen delivery system to the patient is terminated and the oxygen or oxygen delivery system is removed from the patient’s residence.

d. If the patient or the patient’s authorized representative declines to give informed consent, the pharmacist or other provider of oxygen or an oxygen delivery system is exempt from the requirement to make the notification and is permitted to supply the oxygen or oxygen delivery system as directed by the licensed health care provider's order.

e. A copy of the written informed consent shall be attached to the order for the oxygen or oxygen delivery system or otherwise included in the patient's record or, if written consent is not given, the pharmacist or other provider of oxygen or an oxygen delivery system shall note on the order or in the patient's record that informed consent was not given.

f. A pharmacist or other provider of oxygen or an oxygen delivery system who complies with the provisions of this act shall be immune from civil liability if the patient fails to notify the appropriate fire department or company of the patient's name, address, age, and the existence of oxygen or an oxygen delivery system at the patient's residence.

g. Whenever the supplying of oxygen or the providing of an oxygen delivery system to a patient is terminated and the oxygen or oxygen delivery system is removed from the patient's residence, the pharmacist or other provider of that oxygen or oxygen delivery system shall so notify the appropriate fire department or company. Notice shall be given in a manner, form, and within a time frame prescribed by the Director of the Division of Consumer Affairs. If the patient or his authorized representative notified the fire department or company of the existence of oxygen or an oxygen delivery system at his residence pursuant to subsection c. of this section, the patient or his authorized representative shall notify the fire department or company that the supplying of oxygen or the providing of an oxygen delivery system is terminated and that the oxygen or oxygen delivery system has been removed from the patient's residence. Notification shall be provided within 10 days of removal.

131. Section 2 of P.L.1985, c.298 (C.52:27G-21) is amended to read as follows:

C.52:27G-21 Findings, declarations.

2. The Legislature finds and declares that private guardianship for an elderly adult who is incapacitated may not be feasible where there are no willing and responsible family members or friends to serve as guardian, that P.L.1985, c.298 (C.52:27G-20 et seq.) establishes a public guardianship program for elderly adults for the purpose of furnishing guardianship services to elderly persons at reduced or no cost when appropriate, and that P.L.1985, c.298 intends to promote the general welfare by establishing a public guardianship system that permits elderly persons to determinatively participate as fully as possible in all decisions that affect them.

132. R.S.54:5-84 is amended to read as follows:

Persons in need of a guardian.

R.S.54:5-84. If a delinquent owner or lienor is under the age of 18, a person with an intellectual disability, or a person who has been adjudicated incapacitated and in need of a guardianship available under Title 3B of the New Jersey Statutes, upon expiration of the time limit for the redemption of the real estate in which that person has an interest, the right to redeem shall not be barred by service of notice as provided in this article so long as the minority, disability, or incapacity continues, but shall be barred only by an action to foreclose brought in the Superior Court.

133. N.J.S.59:8-8 is amended to read as follows:

Time for presentation of claims.

59:8-8. Time for presentation of claims. A claim relating to a cause of action for death or for injury or damage to person or to property shall be presented as provided in this chapter

not later than the 90th day after accrual of the cause of action. After the expiration of six months from the date notice of claim is received, the claimant may file suit in an appropriate court of law. The claimant shall be forever barred from recovering against a public entity or public employee if:

a. The claimant failed to file the claim with the public entity within 90 days of accrual of the claim except as otherwise provided in N.J.S.59:8-9; or

b. Two years have elapsed since the accrual of the claim; or

c. The claimant or the claimant's authorized representative entered into a settlement agreement with respect to the claim.

Nothing in this section shall prohibit a minor or a person who is mentally incapacitated from commencing an action under this act within the time limitations contained herein, after reaching majority or returning to mental capacity.

Repealer.

134. The following are repealed:

R.S.30:9-1.1;

R.S.30:9-2;

R.S.30:9-29;

R.S.44:5-11; and

R.S.44:5-19.

135. This act shall take effect immediately.

Approved August 7, 2013.